

**FIRST DAY - JANUARY 5, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, January 5, 2005

**PRAAYER**

The prayer was offered by Senator Kruse.

**PRESENTATION OF COLORS**

Presentation of Colors by the Nebraska Army National Guard and the Nebraska Air National Guard.

**ROLL CALL**

Pursuant to the provisions of Article III, Section 10 of the Constitution of Nebraska, the Ninety-Ninth Legislature, First Session of the Legislature of Nebraska, assembled in the George W. Norris Legislative Chamber of the State Capitol at the hour of 10:00 a.m., on Wednesday, January 5, 2005, and was called to order by Senator Chambers.

The roll was called and the following members were present:

Aguilar, Raymond	Flood, Mike	Pahls, Rich
Baker, Thomas C.	Foley, Mike	Pedersen, Dwite
Beutler, Chris	Friend, Mike	Pederson, Don
Bourne, Patrick J.	Heidemann, Lavon L.	Preister, Don
Brashear, Kermit	Howard, Gwen	Price, Marian L.
Brown, Pam	Hudkins, Carol	Raikes, Ronald E.
Burling, Carroll	Janssen, Ray	Redfield, Pam
Byars, Dennis M.	Jensen, Jim	Schimek, DiAnna R.
Chambers, Ernie	Johnson, Joel T.	Schrock, Ed
Combs, Jeanne M.	Kopplin, Gail F.	Smith, Adrian
Connealy, Matt	Kremer, Bob	Stuhr, Elaine
Cornett, Abbie	Kruse, Lowen	Stuthman, Arnie
Cudaback, Jim D.	Landis, David M.	Synowiecki, John F.
Cunningham, Douglas D.	Langemeier, Chris	Thompson, Nancy
Engel, L. Patrick	Louden, LeRoy J.	Wehrbein, Roger R.
Erdman, Philip	McDonald, Vickie D.	
Fischer, Deb	Mines, Mick	

**MOTION - Temporary Clerk and Sergeant at Arms**

Senator Cudaback moved to appoint Mr. Patrick J. O'Donnell as temporary Clerk of the Legislature and Mr. Ron Witkowski as temporary Sergeant at Arms.

The motion prevailed.

**RESIGNATION**

December 30, 2004

The Honorable Mike Johanns  
Governor of Nebraska  
P.O. Box 94848  
Lincoln, NE 68509-4848

Dear Governor Johanns,

This letter is my formal notice that I resign the office of state senator effective at noon on January 3, 2005.

The Clerk of the Legislature brought to my attention the possible constitutional conflict presented by my being sworn in as a member of the Douglas County Board of Commissioners on January 4, 2005, while still holding office in the Nebraska Legislature. It is tempting to go out with a controversial flair, but I'll resist temptation and choose the more prudent course.

My understanding is that any possible problem will be alleviated by my resignation on the day preceding my swearing in as a Douglas County Commissioner.

Sincerely,  
(Signed) Chip Maxwell  
State Senator  
District #9

**MESSAGE FROM THE GOVERNOR**

December 30, 2004

Senator Chip Maxwell  
State Capitol, Room 1118  
Lincoln, Nebraska 68509

Dear Senator Maxwell:

Your letter of resignation from the office of State Senator effective January 3, 2005 has been received by my office. I accept your resignation.

Thank you for your service to the citizens of the State of Nebraska and best wishes in your new position as a member of the Douglas County Board of Commissioners.

Sincerely,  
(Signed) Mike Johanns  
Governor

cjc

### **MOTION - Committee on Credentials**

Senator Mines moved that we proceed to the election of five persons to serve as the Committee on Credentials, who will forthwith report to the Legislature on the credentials of those claiming to be elected to the Legislature in the General Election in November 2004.

The motion prevailed.

Senator Byars moved to elect the following five members of the Legislature to serve on the Committee on Credentials: Senators Landis, Beutler, Wehrbein, Schimek, and Cudaback.

The motion prevailed.

### **REPORT OF COMMITTEE ON CREDENTIALS**

State of Nebraska

United States of America, )

) ss.

Department of State

State of Nebraska )

I, John A. Gale, Secretary of State of the State of Nebraska do hereby certify that the attached is a true and correct copy of the Official Roster of members of the Nebraska Unicameral Legislature elected or appointed to serve in the Ninety-Ninth Legislature, First Session, 2005.

Further, I hereby certify that the members so listed on the Official Roster attached hereto are the duly elected or appointed members of the Unicameral Legislature in the State of Nebraska for the Ninety-Ninth Legislature, First Session, 2005.

Finally, I hereby certify that all election returns, abstracts, canvass and appointment records with reference to said members are on file in the office of the Secretary of State and are a matter of public record.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this Fifth day of January in the year of our Lord, two thousand and five.

(SEAL)

John A. Gale, Secretary of State

DISTRICT/NAME	ELECTED
1 Lavon L. Heidemann	November 2, 2004
2 Roger R. Wehrbein	November 5, 2002
3 Gail F. Kopplin	November 2, 2004
4 Kermit Brashear	November 5, 2002
5 Don Preister	November 2, 2004
6 Pam Brown	November 5, 2002
7 John F. Synowiecki	November 2, 2004
8 Patrick J. Bourne	November 5, 2002
9 Gwen Howard	November 2, 2004
10 Mike Friend	November 5, 2002
11 Ernie Chambers	November 2, 2004
12 Pam Redfield	November 5, 2002
13 Lowen Kruse	November 2, 2004
14 Nancy Thompson	November 5, 2002
15 Ray Janssen	November 2, 2004
16 Matt Connealy	November 5, 2002
17 L. Patrick Engel	November 2, 2004
18 Mick Mines	November 5, 2002
19 Mike Flood	November 2, 2004
20 Jim Jensen	November 5, 2002
21 Carol Hudkins	November 2, 2004
22 Arnie Stuthman	November 5, 2002
23 Chris Langemeier	November 2, 2004
24 Elaine Stuhr	November 5, 2002
25 Ronald E. Raikes	November 2, 2004
26 Marian L. Price	November 5, 2002
27 DiAnna R. Schimek	November 2, 2004
28 Chris Beutler	November 5, 2002
29 Mike Foley	November 2, 2004
30 Dennis M. Byars	November 5, 2002
31 Rich Pahls	November 2, 2004
32 Jeanne M. Combs	November 5, 2002
33 Carroll Burling	November 2, 2004
34 Bob Kremer	November 5, 2002
35 Raymond Aguilar	November 2, 2004
36 Jim D. Cudaback	November 5, 2002
37 Joel T. Johnson	November 2, 2004
38 Ed Schrock	November 5, 2002
39 Dwite Pedersen	November 2, 2004
40 Douglas D. Cunningham	November 5, 2002
41 Vickie D. McDonald	November 2, 2004
42 Don Pederson	November 5, 2002
43 Deb Fischer	November 2, 2004

The committee escorted the Chief Justice from the Chamber.

**MOTION - Adopt Temporary Rules**

Senator Hudkins moved that the rules, as now in our possession, be adopted for today only, Wednesday, January 5, 2005.

The motion prevailed.

**MOTION - Election of Officers**

Senator Engel moved that the following officers be elected to serve for the Ninety-Ninth Legislature:

Clerk of the Legislature  
 Assistant Clerk of the Legislature  
 Sergeant at Arms

Patrick J. O'Donnell  
 Richard K. Brown  
 Ron Witkowski

The motion prevailed.

**MOTION - Election of Speaker**

Senator D. Pederson moved to proceed to the election of the Speaker of the Legislature.

The motion prevailed.

Senator Brashear placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Brashear.

The motion prevailed.

Senator Brashear was duly elected Speaker of the Legislature.

**MOTION - Escort Chief Justice**

Senator Dw. Pedersen moved that a committee of six be appointed to escort the Chief Justice of the Supreme Court to the Legislative Chamber for the purpose of administering the oath of office to the officers of the Legislature.

The motion prevailed.

The Chair appointed Senators Combs, Hudkins, McDonald, Price, Stuhr, and Thompson to serve on said committee.

**OFFICERS' OATH OF OFFICE**

STATE OF NEBRASKA )  
 ) ss.

LANCASTER COUNTY )

We, and each of us, do solemnly swear (or affirm) that we will support the constitution of the United States, the constitution of the State of Nebraska, and will faithfully discharge the duties of our respective offices to the best of our ability.

Speaker  
Clerk of the Legislature  
Assistant Clerk of the Legislature  
Sergeant at Arms

Kermit Brashear  
Patrick J. O'Donnell  
Richard K. Brown  
Ron Witkowski

The committee escorted the Chief Justice from the Chamber.

**SPEAKER BRASHEAR PRESIDING**

**MOTION - Chairperson of Committee on Committees**

Senator Loudon moved to proceed to the election of the Chairperson of the Committee on Committees.

The motion prevailed.

Senator Dw. Pedersen placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Dw. Pedersen.

The motion prevailed.

Senator Dw. Pedersen was duly elected Chairperson of the Committee on Committees.

**MOTION - Committee on Committees Members**

Senator Dw. Pedersen moved to proceed to the election of the remaining twelve members of the Committee on Committees, and that we authorize the members residing within each of the three districts, as enumerated in Rule 3, Sec. 2, to nominate four members to be elected by the legislative body to serve on the Committee on Committees.

The motion prevailed.

Senators Kremer, Landis, Price, and Schimek were nominated from District 1.

Senators Bourne, Brashear, Jensen, and Preister were nominated from District 2.

Senators Cudaback, Engel, D. Pederson, and Schrock were nominated from District 3.

Senator Aguilar moved the approval of the nominees to the Committee on Committees.

The motion prevailed.

The Chair declared the nominees duly elected.

### **MOTION - Chairperson of Executive Board**

Senator Bourne moved to proceed to the election of the Chairperson of the Executive Board of the Legislative Council.

The motion prevailed.

Senator Engel placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Engel.

The motion prevailed.

Senator Engel was duly elected Chairperson of the Executive Board.

### **MOTION - Vice Chairperson of Executive Board**

Senator Synowiecki moved to proceed to the election of the Vice Chairperson of the Executive Board of the Legislative Council.

The motion prevailed.

Senator Cudaback placed his name in nomination.

Senator Johnson moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Cudaback.

The motion prevailed.

Senator Cudaback was duly elected Vice Chairperson of the Executive Board.

### **MOTION - Executive Board Members**

Senator Connealy moved to proceed to the election of the other six members of the Executive Board of the Legislative Council as outlined in 50-401.01.

The motion prevailed.

Senators Beutler and Stuthman were nominated from District 1.

Senators Chambers and Thompson were nominated from District 2.

Senators Erdman and McDonald were nominated from District 3.

Senator Stuthman moved the approval of the nominees to the Executive Board of the Legislative Council.

The motion prevailed.

The Chair declared the nominees duly elected.

### **MOTION - Standing Committee Chairpersons**

Senator McDonald moved to proceed to the election of the standing committee chairpersons, by secret ballot, in accordance with Rule 3, Sec. 7(a).

The motion prevailed.

#### **CHAIRPERSON - Agriculture**

Senator Kremer placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Kremer.

The motion prevailed.

Senator Kremer was duly elected Chairperson of the Agriculture Committee.

#### **CHAIRPERSON - Appropriations**

Senator D. Pederson placed his name in nomination.

Senator Wehrbein placed his name in nomination.

The Chair declared the nominations closed.

The Chair appointed Senators Cornett, Flood, and Langemeier as tellers.

Senator D. Pederson           27

Senator Wehrbein           22

49

Senator D. Pederson was duly elected Chairperson of the Appropriations

Committee.

CHAIRPERSON - Banking, Commerce and Insurance

Senator Louden placed his name in nomination.

Senator Mines placed his name in nomination.

The Chair declared the nominations closed.

The Chair appointed Senators Heidemann, Howard, and Pahls as tellers.

Senator Louden	15
Senator Mines	<u>34</u>
	49

Senator Mines was duly elected Chairperson of the Banking, Commerce and Insurance Committee.

CHAIRPERSON - Business and Labor

Senator Cunningham placed his name in nomination.

Senator Combs placed her name in nomination.

The Chair declared the nominations closed.

The Chair appointed Senators Fischer, Kopplin, and Synowiecki as tellers.

Senator Cunningham	26
Senator Combs	<u>22</u>
	48

Senator Cunningham was duly elected Chairperson of the Business and Labor Committee.

CHAIRPERSON - Education

Senator Raikes placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Raikes.

The motion prevailed.

Senator Raikes was duly elected Chairperson of the Education Committee.

CHAIRPERSON - General Affairs

Senator Janssen placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Janssen.

The motion prevailed.

Senator Janssen was duly elected Chairperson of the General Affairs Committee.

CHAIRPERSON - Government, Military and Veterans Affairs

Senator Schimek placed her name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Schimek.

The motion prevailed.

Senator Schimek was duly elected Chairperson of the Government, Military and Veterans Affairs Committee.

CHAIRPERSON - Health and Human Services

Senator Jensen placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Jensen.

The motion prevailed.

Senator Jensen was duly elected Chairperson of the Health and Human Services Committee.

CHAIRPERSON - Judiciary

Senator Bourne placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Bourne.

The motion prevailed.

Senator Bourne was duly elected Chairperson of the Judiciary Committee.

CHAIRPERSON - Natural Resources

Senator Schrock placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Schrock.

The motion prevailed.

Senator Schrock was duly elected Chairperson of the Natural Resources Committee.

#### CHAIRPERSON - Nebraska Retirement Systems

Senator Stuhr placed her name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Stuhr.

The motion prevailed.

Senator Stuhr was duly elected Chairperson of the Nebraska Retirement Systems Committee.

#### CHAIRPERSON - Revenue

Senator Landis placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Landis.

The motion prevailed.

Senator Landis was duly elected Chairperson of the Revenue Committee.

#### CHAIRPERSON - Transportation and Telecommunications

Senator Baker placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Baker.

The motion prevailed.

Senator Baker was duly elected Chairperson of the Transportation and Telecommunications Committee.

#### CHAIRPERSON - Urban Affairs

Senator Friend placed his name in nomination.

Senator Smith moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Friend.

The motion prevailed.

Senator Friend was duly elected Chairperson of the Urban Affairs Committee.

**MOTION - Special and Select Committee Chairpersons**

Senator Price moved to proceed to the election of the special and select committee chairpersons, by secret ballot.

The motion prevailed.

**CHAIRPERSON - Intergovernmental Cooperation**

Senator Aguilar placed his name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Aguilar.

The motion prevailed.

Senator Aguilar was duly elected Chairperson of the Intergovernmental Cooperation Committee.

**CHAIRPERSON - Rules**

Senator Hudkins placed her name in nomination.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Hudkins.

The motion prevailed.

Senator Hudkins was duly elected Chairperson of the Rules Committee.

**CHAIRPERSON – Enrollment and Review**

Senator Erdman nominated Senator Flood.

Senator Cudaback moved the nominations be closed and a unanimous vote by acclamation be cast for Senator Flood.

The motion prevailed.

Senator Flood was duly elected Chairperson of the Enrollment and Review Committee.

**MOTION - Election Returns**

Senator Redfield moved that a committee of three be appointed to escort the Secretary of State to the Chamber to deliver the election returns of the General Election of November 2004.

The motion prevailed.

The Chair appointed Senators Combs, Loudon, and Wehrbein to serve on said committee.

The committee escorted Secretary of State, John A. Gale, to the rostrum where he delivered the following report.

**REPORT FROM THE SECRETARY OF STATE**

January 5, 2005

Speaker of the Legislature  
Ninety-Ninth Legislature, First Session (Regular) 2005  
State Capitol  
Lincoln, Nebraska

Honorable Speaker:

In accordance with Article IV, Section 4 of the Constitution of the State of Nebraska, I have the honor of herewith delivering to you, under Seal, the abstract of votes cast in the ninety-three counties of the State of Nebraska at the General Election held on November 2, 2004 for the offices of Members of the Public Service Commission, Regents of the University of Nebraska, Members of the State Board of Education, Supreme Court Judges, Court of Appeals Judges and Nebraska Workers Compensation Judges which votes are required by law to be canvassed by the Nebraska State Legislature, pursuant to Section 32-1039 R.S. Nebraska 1943, Reissue of 1998 as submitted to me for delivery to the Honorable Speaker of the Legislature.

I also deliver to you, under Seal, the list of candidates receiving the highest vote for each particular office enumerated. The certificate of the Secretary of State accompanies this list.

The original abstract sheets containing the tabulation of votes from the ninety-three counties with reference to four Constitutional Amendments are on file in this office. A certification of these returns is also attached.

Inasmuch as these canvass sheets are part of the records of the Office of Secretary of State, we respectfully request that they be returned to our office files immediately upon the completion of your official canvass.

Respectfully submitted,

United States of America, )

State of Nebraska                               ) ss.                               Department of State  
  )

I, John A. Gale, Secretary of State of the State of Nebraska do hereby certify that the attached is a true and correct listing of Constitutional Amendments proposed by the Legislature showing the number of votes cast for and against each at the General Election held on November 2, 2004.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this Fifth day of January in the year of our Lord, two thousand and five.

(SEAL)   John A. Gale, Secretary of State

General Election  
November 2, 2004

No. 1

A constitutional amendment to authorize exemption of certain improvements to historically significant real property from property taxation.

For	406,230
Against	288,544

No. 2

A constitutional amendment to remove the Lieutenant Governor and designate the Speaker as presiding officer of the Legislature.

For	262,040
Against	408,515

No. 3

A constitutional amendment to define casino gaming and to permit the Legislature to authorize up to two casino locations subject to approval by voters in the affected counties and provide for the authorization, operation, regulation, and taxation of casino gaming.

For	267,655
Against	482,301

No. 4

A constitutional amendment to require the proceeds of the lottery operated

and regulated by the State of Nebraska to be appropriated by the Legislature for the costs of the lottery, the Nebraska Environmental Trust Fund, education, the Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund, subject to certain conditions.

For	403,073
Against	321,410

No. 417

Shall the Nebraska Constitution be amended to provide that the people may enact laws by initiative measure to provide for the authorization, operation, regulation, and taxation of all forms of games of chance?

For	363,478
Against	380,424

No. 418

Shall the Nebraska Constitution be amended to provide that the Legislature shall not amend, repeal, modify, or impair a law enacted by the people by initiative, except upon a vote of at least two-thirds of all the members of the Legislature?

For	402,709
Against	331,908

### **SENATOR CUDABACK PRESIDING**

Senator Kremer moved to approve the report of the Secretary of State and the candidates stated therein be declared duly elected.

The motion prevailed.

The Secretary of State was escorted from the Chamber.

### **MOTION - Inaugural Ceremonies**

Senator Baker moved to arrange to hold the inaugural ceremonies for the newly elected state officials on Thursday, January 6, 2005, at 1:45 p.m.

The motion prevailed.

### **ANNOUNCEMENT**

Senator Dw. Pedersen announced the Committee on Committees will meet today, January 5, 2005, at 2:30 p.m., in Room 1507.

**ADJOURNMENT**

At 12:43 p.m., on a motion by Senator Engel, the Legislature adjourned until 10:00 a.m., Thursday, January 6, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**SECOND DAY - JANUARY 6, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, January 6, 2005

**PRAYER**

The prayer was offered by Senator Johnson.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Brown who was excused; and Senators Hudkins and Landis who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the first day was approved.

**MOTION - Adopt Temporary Rules**

Senator Erdman moved that the rules, as now in our possession, be adopted for today only, Thursday, January 6, 2005.

The motion prevailed.

**MESSAGES FROM THE GOVERNOR**

April 28, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Natural Resources Commission.

## APPOINTEES:

\*Roger Korell, RR 1 Box 297, Bayard NE 69334  
\*Wayne Madsen, PO Box 98, Trenton NE 69044  
\*Jim Van Marter, Jr., 135 West 9th Ave, Holdrege NE 68949

The aforementioned names are respectfully submitted for your consideration.

(Signed) Sincerely,  
Mike Johanns  
Governor

web/  
Enclosure  
\*Reappointment

April 28, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Accountability and Disclosure Commission.

## APPOINTEE:

Steve McCollister, 11815 Oakair Plaza, Omaha NE 68137

The aforementioned name is respectfully submitted for your consideration.

(Signed) Sincerely,  
Mike Johanns  
Governor

web/  
Enclosure

May 28, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Nebraska Information Technology Commission.

## APPOINTEE:

Susan Heider, 4021 Avenue B, Scottsbluff NE 69367

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

June 29, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were reappointed to the Crime Victim's Reparations Committee.

APPOINTEES:

William Brueggeman, 809 1st Avenue, Plattsmouth NE 68048  
Charles Brewster, 1711 W 41st Street, Kearney NE 68847

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

June 30, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Board of Emergency Medical Services.

APPOINTEE:

Dr. Rommie J. Hughes, 5415 Oriole Drive, Scottsbluff NE 69361

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

July 1, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Coordinating Commission for Postsecondary Education.

APPOINTEE:

Marilyn Harris, 3618 Culpepper Court, Lincoln NE 68516

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

July 16, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Foster Care Review Board.

APPOINTEES:

Joellen McGinn, 1437 S 23rd Street, Lincoln NE 68502

Gerald Schenck, 1030 McMartin Avenue, Grand Island NE 68801  
John Seyfarth, 4612 Sutley Circle, Papillion NE 68133

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

July 16, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the State Board of Health.

APPOINTEES:

\*Samuel Augustine, 9514 Grover Street, Omaha NE 68124  
Edward Discoe, 2316 Muirfield Place, Columbus NE 68601  
\*Linda Lazure, 2321 Country Club Ave, Omaha NE 68104  
\*James C. Schiefen, 710 W 5th, Imperial NE 69033  
Gary Westerman, 1106 South 91st Ave, Omaha NE 68124

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure  
\*Reappointment

July 16, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was reappointed to the Child Abuse Prevention Fund Board.

APPOINTEE:

Kevin Benesch, 2337 Ryons Street, Lincoln NE 68502

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

July 19, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Boiler Safety Code Advisory Board.

APPOINTEE:

Thomas DiMartino, 6940 Cornhusker Hwy, Lincoln NE 68507

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

July 22, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Foster Care Review Board.

APPOINTEE:

James E. Gordon, 1646 Trelawney Drive, Lincoln NE 68512

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

August 12, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Nebraska Ethanol Board.

APPOINTEE:

\*Charles J. "Tod" Brodersen, 2405 West 11th Street, Hastings NE 68901

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure  
\*Reappointment

August 12, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were reappointed to the Board of Emergency Medical Services.

APPOINTEES:

Shawn J. Baumgartner, 1928 8th Avenue, Scottsbluff NE 69361

Robert Dunn, 1500 Brighton Ave, Lincoln NE 68506

Michael L. Westcott, 9742 Ascot Drive, Omaha NE 68114

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

August 12, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Rural Health Advisory Commission.

APPOINTEES:

William Brush, 107 N Grand, North Loup NE 68859

Martin L. Fattig, 2508 P Street, Apt #2, Auburn NE 68305

\*Pamela H. List, 330 Lambrecht Street, Beemer NE 68716

Michele Mulligan-Witt, M.D., 100 Meadow Lake Road, Valentine NE 69201

\*Dr. Donald Taylor, Jr., 1335 Sheridan Ave, Alliance NE 69301

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure  
\*Reappointment

August 12, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was reappointed to the State Personnel Board.

APPOINTEE:

Samuel Seever, 6425 Lone Tree Drive, Lincoln NE 68512

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

August 12, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were reappointed to the State Electrical Board.

APPOINTEES:

Riley H. George, 303 Cherokee Road, Lexington NE 68850  
Tom F. Ourada, 1130 East 13th Street, Crete NE 68333

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/

Enclosure

August 13, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was reappointed to the Nebraska Investment Council.

APPOINTEE:

John Maddux, 74287 333 Ave, Imperial NE 69033

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

September 17, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Board of Emergency Medical Services.

APPOINTEES:

Benjamin B. Lans, 536 Moorehead, Chadron NE 69337  
Clinton Rasmussen, PO Box 458, Dakota City NE 68731

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

September 20, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Child Abuse Prevention Fund Board.

APPOINTEE:

\*Peter Tulipana, 1604 South 154th Street, Omaha NE 68144

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure  
\*Reappointment

September 20, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Board of Educational Lands and Funds.

APPOINTEE:

\*M. Jane Keller, HC 88 Box 30, 303 West Highway 20, Bassett NE 68714

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure  
\*Reappointment

September 30, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Nebraska Arts Council.

APPOINTEES:

Vicki P. Bromm, 1448 N Pine Street, Wahoo NE 68066  
David Catalan, 900 Farnam Street #610, Omaha NE 68102  
Murray H. Newman, 112 S 92nd Street, Omaha NE 68114  
Germelina Salumbides, 3215 19th Avenue, Kearney NE 68845  
Richard J. Vierk, 1230 Fall Creek Road, Lincoln NE 68510  
\*Donna Woods, 128 N 13th Street #1007, Lincoln NE 68508

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure  
\*Reappointment

October 13, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Game and Parks Commission.

APPOINTEE:

James J. Ziebarth, 2402 Highway 44, Wilcox NE 68982

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

October 26, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed  
Behavioral Health Administrator.

APPOINTEE:

Richard DeLiberty, HHSS State Office 3rd Floor, Lincoln NE 68509

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

October 26, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed  
Director of the Department of Aeronautics.

APPOINTEE:

Stuart MacTaggart, 3431 Aviation Road, Suite 150, Lincoln NE 68501

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

October 28, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Coordinating Commission for Postsecondary Education.

APPOINTEE:

James W. Strand, 2149 Stone Creek Loop, Lincoln NE 68512

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

November 9, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed as the director of the Department of Health and Human Services Finance and Support.

APPOINTEE:

Richard P. Nelson, 301 Centennial Mall South, Lincoln NE 68509

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

November 9, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed as the director of the Department of Health and Human Services Regulation and Licensure.

APPOINTEE:

Dr. Richard Raymond, 301 Centennial Mall South, Lincoln NE 68509

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

December 2, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Nebraska Ethanol Board.

APPOINTEE:

James J. Jenkins, RR 1 Box 29, Callaway NE 68825

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

December 3, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Public Employees Retirement Board.

APPOINTEES:

\*Denis Blank, Department of Agriculture, 301 Centennial Mall, 4th, Lincoln NE 68509  
Sgt. Glenn Elwell, NE State Patrol, 1600 Hwy 2, Lincoln NE  
Mark Shepard, Fremont Public Schools, 957 N Pierce Street, Fremont NE 68025

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure  
\*Reappointment

December 3, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to

the Nebraska Motor Vehicle Industry Licensing Board.

APPOINTEE:

\*Jess Hull, 3303 N 133rd Circle, Omaha NE 68164

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure  
\*Reappointment

December 8, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the State Emergency Response Commission.

APPOINTEE:

\*Steven Danon, 17609 Renfro Street, Omaha NE 68135

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure  
\*Reappointment

December 15, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Nebraska Educational Telecommunications Commission.

APPOINTEES:

\*Stan Carpenter, 6731 Crooked Creek Drive, Lincoln NE 68516

\*Mary Harbaugh, 2609 Riverview Drive, Grand Island NE 68801

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/

Enclosure

\*Reappointment

December 15, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Nebraska Transit and Rail Advisory Council.

APPOINTEES:

\*Anne Boyle, 420 South 11th #303, Omaha NE 68102

\*Duane Eitel, 3505 S 31st Street, Lincoln NE 68502

\*Roger Figard, 5411 Glade, Lincoln NE 68506

\*David Gilfillan, 2410 Lincoln Street, Beatrice NE 68310

\*Georgia Janssen, RR #1 Box 144, Winside NE 68790

\*Steve McBeth, 6010 Rolling Hills Blvd, Lincoln NE 68512

\*Paul Mullen, 2222 Cuming Street, Omaha NE 68102

\*Thomas Mulligan, 12311 Charles Street, Omaha NE 68154

\*Roberto Munguia, 201 N 7th Street, Lincoln NE 68501

\*Gary Ruegg, 16314 Seward Circle, Omaha NE 68118

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure  
\*Reappointment

December 17, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Boiler Safety Code Advisory Board.

APPOINTEES:

\*Thomas DiMartino, 22017 Bobwhite Ave, Gretna NE 68028  
\*Martin Kasl, 6700 Ridge Point Road, Lincoln NE 68512

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure  
\*Reappointment

December 17, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the State Emergency Response Commission.

APPOINTEE:

Donald Eisenhower, 72175 574th Avenue, Plymouth NE 68424

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

December 17, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Board of Trustees of the Nebraska State Colleges.

APPOINTEES:

\*Stephen Lewis, 505 West 20th Street, Lexington NE 68850  
Carter Peterson, 502 Douglas Street, Wayne NE 68787

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure  
\*Reappointment

December 23, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Nebraska Power Review Board.

APPOINTEES:

Donald Kohtz, 10330 N 140th St Unit EZ, Waverly NE 68462  
\*Ken Kunze, 721 Grant Avenue, York NE 68467

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure  
\*Reappointment

December 23, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Game and Parks Commission.

APPOINTEE:

Jerrold Burke, Rt 3 Box 109, Curtis NE 69025

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

December 23, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Commission of Industrial Relations.

APPOINTEE:

David J. Cullan, 424 South 89th Street, Omaha NE 68114

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

December 27, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Environmental Quality Council.

APPOINTEE:

Jerry P. (Pat) Trotter, 7220 22nd Street, Gothenburg NE 69138

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

December 28, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the State Board of Health.

APPOINTEE:

Dr. Paul Salansky, 2521 Whitaker Road, Nebraska City NE 68410

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

December 28, 2004

President, Speaker Bromm  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Nebraska State Fair Board.

APPOINTEE:

Tamas R. Allan, 5405 A Street, Lincoln NE 68510

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

## **ATTORNEY GENERAL'S OPINIONS**

### Opinion 04021

DATE: August 2, 2004

SUBJECT: Authority Of The Governor To Conform Certain  
Nebraska Government Procurement Procedures To  
The Provisions Of The Agreement On Government  
Procurement Under The Auspices Of The World Trade  
Organization.

REQUESTED BY: Sen. Chris Beutler  
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General

Dale A. Comer, Assistant Attorney General

From 1948 to 1994, much of world trade was governed by the international General Agreement on Tariffs and Trade ("GATT"), to which the United States was a party. Initially, GATT did not pertain to government procurement. However, in 1979, an Agreement on Government Procurement ("GPA") was signed under GATT, and that agreement became effective in 1981. The first GPA was subsequently amended in 1987, and again in 1994, at the same time that the agreement establishing the World Trade Organization ("WTO") was implemented. Currently, the United States is one of a small group of World Trade Organization members which is a party to the GPA within the framework of the WTO, and that GPA became effective on January 1, 1996. The GPA seeks expansion of world trade in three main ways: 1. it prohibits discrimination based upon national origin for the procurement of goods and services from countries that are parties to the GPA, 2. it establishes clear and transparent laws, regulations and procedures for making government purchases, and 3. it applies competitive procedural requirements to the government purchasing and contracting process.

As noted above, the United States was a party to GATT, and it currently is a member of the WTO and a party to the Agreement on Government Procurement. Individual States may also elect to participate in the GPA, and thirty-seven States have agreed to do so. For purposes of the GPA, States are considered to be sub-central governments. Nebraska has participated in the GPA since at least 1993, when Governor Nelson agreed that the United States Trade Representative ("USTR") could offer procurement from the State's "central procurement agency" for coverage under the GATT Agreement on Government Procurement. Letter from E. Benjamin Nelson, Governor of Nebraska to Ambassador Michael Kantor, United States Trade Representative (December 10, 1993)(on file with the Office of the Governor of Nebraska).

In September 2003, Robert B. Zoellick, the United States Trade Representative, wrote to Governor Johanns and noted that the federal government was in the process of negotiating several new trade agreements with various countries. Letter from Robert B. Zoellick, United States Trade Representative to Mike Johanns, Governor of Nebraska (received by the Governor on September 15, 2003)(on file with the Office of the Governor of Nebraska). Mr. Zoellick then sought the Governor's permission to offer the new trading partners the same nondiscriminatory treatment that Nebraska already offered the 27 other countries which were members of the GPA. *Id.* Mr. Zoellick further represented that Nebraska would not be required to take on additional commitments which would require it to change its current government procurement practices. *Id.* Mr. Zoellick also stated that the new trade agreements would provide the same basic obligations as set out in the current GPA, and that, like the current GPA, the provisions would apply only to purchases of goods and services over \$460,000, and to construction contracts over 6.481 million dollars. *Id.*

On May 10, 2004, Governor Johanns responded to Mr. Zoellick, and authorized him to offer access to Nebraska's government procurement market in the free trade agreements he was negotiating. Letter from Mike Johanns, Governor of Nebraska to Robert B. Zoellick, United States Trade Representative (May 10, 2004)(on file with the Office of the Governor of Nebraska). Governor Johanns stated that Nebraska would undertake the same commitments which it already had undertaken in the current GPA under the auspices of the World Trade Organization. *Id.* Governor Johanns also stated that:

. . . Nebraska's agreement is contingent upon existing state laws that govern purchasing requirements for state agencies. Nothing in this correspondence abrogates existing state law.

*Id.*

You are concerned that the Governor may not have authority to bind the State of Nebraska to participate in the GPA and in the trade agreements which the USTR is currently negotiating. You also believe that the state's procurement laws are matters within the purview of the Legislature. Accordingly, you have posed two questions to us which we will discuss below. Both of your questions are posed in the context of proposed legislation which you are considering, and which would provide that "[s]tate officials, including the Governor, do not have the authority to agree to bind the State under the government procurement rules of an international trade agreement, nor to give consent to the federal government to be bound by such an agreement."

Question No. 1. Does the Governor have the authority to bind the state to the procurement provisions of those trade agreements the USTR is currently negotiating? If the Governor does not, in fact, have such authority, I question whether it is necessary to spell this out in state statute, as I am proposing to do.

To answer your initial question, it seems to us that we must first determine if, in our view, current Nebraska statutes give the Governor the authority to subject certain government procurement in Nebraska to the procurement provisions of the GPA with respect to additional countries as requested by the USTR. If there is no such current statutory authority, then we must determine if the Governor has inherent constitutional authority to act unilaterally in that fashion.

### 1. The Agreement on Government Procurement (GPA)

In analyzing the Governor's authority to subject government procurement in Nebraska to the provisions of the GPA, it is important to start with an understanding of precisely what the GPA requires its participants to do. Therefore, we will set out a summary of the significant GPA provisions as

we understand them. These are general rules, to which there are often exceptions.

1. The GPA applies to government procurement of both goods and services, including construction services, above the following thresholds: \$477,000 for purchases of goods and services, and 6.7 million dollars for construction contracts. Those thresholds are subject to frequent review and revision. With respect to state participants, each State may specify which specific agencies or departments are subject to the GPA and which types of procurement are covered. Each State may also make any exceptions to coverage or exclusions which it deems necessary.
2. Entities which are subject to the GPA, including participating States, are required to apply all laws, regulations, procedures, and practices regarding government procurement so that the providers of products and services from countries which are also parties to the Agreement are treated the same in every respect as domestic providers of products and services, and the same as each other. Therefore, no preferences for domestic suppliers or for one foreign supplier over another may be applied, unless the State has listed that particular procurement as an exception to coverage. In addition, discriminatory procurement laws can continue to be applied to government procurements which do not fall within the scope of the GPA, or to countries which are not covered under the GPA.
3. Technical specifications for products or services to be procured will not be prepared, adopted or applied with a view to or the effect of creating unnecessary obstacles to international trade.
4. "Tendering" (bidding) procedures for government procurement subject to the GPA must be conducted in a nondiscriminatory manner. The GPA contains provisions for open tendering procedures, selective tendering procedures and limited tendering procedures.
5. A notice of proposed procurement must be published for each intended procurement subject to the GPA. Bid documentation provided to suppliers must also contain specified information.
6. Procedures for qualifying suppliers may not discriminate among domestic suppliers and foreign suppliers.
7. Selection of providers for government procurement must be done in a fair and nondiscriminatory manner. Bids must normally be submitted in writing. Bid opening procedures must be conducted with regularity.
8. Entities subject to the GPA may not use offsets in the qualification

and selection of suppliers, products or services, or in the evaluation of bids and the award of contracts. Offsets are defined in the GPA to include measures used to encourage local development or improve balance-of-payments accounts by means of domestic content, licensing of technology, investment requirements, counter-trade or similar requirements.

9. Entities subject to the GPA must publish notice of awards of contracts which are covered by the GPA.
10. Governments of unsuccessful bidders in connection with a procurement under the GPA may obtain additional information on the contract award so as to determine if the procurement was made fairly and impartially. Parties to the GPA must promptly publish laws, regulations, judicial decisions, or administrative rulings of general application to government procurement covered by the GPA so that others can become acquainted with them.
11. Parties to the Agreement must provide nondiscriminatory, timely, transparent and effective procedures which will enable suppliers to challenge alleged breaches of the GPA arising in the context of procurements where they have or had an interest. An example of such a procedure would be providing access to a court system.

The provisions outlined above appear to fall into two main areas of emphasis. First, they require that government procurement subject to the GPA be nondiscriminatory, and that all suppliers be treated the same, without preferences. Second, they require that government procurement subject to the GPA be accomplished through open and competitive bidding and contract award procedures.

It is also important to understand which Nebraska agencies are bound by the actions of Governor Nelson and Governor Johanns, since the GPA applies only to government procurement by those specific agencies or departments which a particular State has designated as subject to the Agreement. Unfortunately, that determination is not entirely clear.

In Governor Nelson's 1993 letter to the USTR, he specified that procurement from Nebraska's "central procurement agency" could be offered under the GATT Agreement on Government Procurement.<sup>1</sup> Letter from E. Benjamin Nelson, Governor of Nebraska to Ambassador Michael Kantor, United States Trade Representative (December 10, 1993)(on file with the Office of the Governor of Nebraska). That designation could logically apply to the Department of Administrative Services ("DAS") and all of its procurement divisions such as the Materiel Division or the State Building Division. However, some materials pertaining to the GPA indicate that the only Nebraska procurement agency subject to the GPA is the Materiel Division of the Department of Administrative Services. LINDA CARROLL, WORLD TRADE ORGANIZATION GOVERNMENT

PROCUREMENT AGREEMENT IMPLEMENTATION GUIDELINES AND DIRECTORY OF SOLICITATION ADVERTISING, Appendix A 17 (National Association of State Purchasing Officials 1996). In either case, it appears to us that application of the GPA in Nebraska extends only to portions of DAS under the Governor's direct control.<sup>2</sup>

2. Statutory authority of the Governor with respect to the GPA.

We are aware of no Nebraska statute which specifically provides that the Governor has authority to subject certain government procurement in Nebraska to trade agreements similar to the GPA. Nor have we discovered any Nebraska cases which deal directly with that issue. However, there is a Nebraska statute which speaks to bidding preferences and nondiscriminatory bidding, the first area of emphasis under the GPA. There are also Nebraska statutes which deal with the authority of DAS and its divisions to purchase goods and services within an open and competitive bidding and procurement process, the second emphasis of the GPA.

In the area of nondiscriminatory treatment, Neb. Rev. Stat. § 73-101.01 (2003) provides:

When a public contract is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference over a nonresident bidder from a state which gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidder. Resident bidder as used in sections 73-101.01 and 73-101.02 shall mean any person, partnership, foreign or domestic limited liability company, association or foreign or domestic corporation authorized to engage in business in the State of Nebraska and which has met the residency requirement of the state of the nonresident bidder necessary for receiving the benefit of that state's preference law on the date when any bid for a public contract is first advertised or announced or has had a bona fide establishment for doing business within this state for the length of time on the date when any bid for a public contract is first advertised or announced. Any contract entered into without compliance with sections 73-101.01 and 73-1-1/02 shall be null and void.

Therefore, Nebraska has a reciprocal preference statute. The State must give resident bidders in a particular public contracting situation the same preference which any nonresident bidders receive from their government in similar situations.

Under the GPA, suppliers or bidders for government procurement can receive no preferences. As a result, foreign countries which are parties to the GPA can give their own suppliers no preferences over Nebraska bidders in their government procurement subject to the Agreement. Consequently, since there can be no foreign preferences under the GPA, no preferences for resident bidders in Nebraska are required for government procurement under

the GPA by § 73-101.01. On that basis, it appears to us that the nondiscriminatory preference provisions in the GPA are permissible under and compatible with Nebraska law.

The second area of emphasis within the GPA involves requirements for open and competitive bidding and contract award procedures. Nebraska statutory law in this area generally tracks the GPA, and provides broad authority for DAS and its divisions to make purchases of goods and services in an open and competitive environment.

The GPA applies to government procurement of goods and services, including construction services. It also covers procurement by any contractual means including lease, rental or hire purchasing. The Materiel Division of the Department of Administrative Services has broad authority in those areas. For example, Neb. Rev. Stat. § 81-153 (2003) provides, as is pertinent:

The material division shall have the power and duty to:

(1) Purchase or contract for, in the name of the state, the personal property required by using agencies and the state;

(2) Promulgate, apply and enforce standard specifications established as provided in section 81-154;

\* \* \*

(4) Determine the utility, quality, fitness, and suitability of all personal property tendered or furnished;

(5) Make rules and regulations consistent with sections 81-145 to 81-171 and 81-1118 to 81-1118.06. . . .

\* \* \*

(8) Enter into any personal property lease agreement when it appears to be in the best interest of the state; and

(9) Negotiate purchases and contracts when conditions exist to defeat the purpose and principles of public competitive bidding.

In addition, Neb. Rev. Stat. § 81-1118 (Supp. 2003) provides, in pertinent part:

The materiel division of the Division of Administrative Services is hereby established and shall be managed by the materiel administrator.

There are hereby established the following seven branches of the materiel division of the Department of Administrative Services which

shall have the following duties, powers and responsibilities:

\* \* \*

(5) The state purchasing bureau shall be responsible for all purchases by all state agencies other than the University of Nebraska. The materiel division shall administer the public notice and bidding procedures and any other areas designated by the Director of Administrative Services to carry out the lease or purchase of personal property.

\* \* \*

Therefore, the Materiel Division of DAS has broad authority in the procurement of goods and personal property for the State.

In addition, the Material Division of DAS has broad authority in the procurement of services for the State. Neb. Rev. Stat. § 73-504 (2003) provides:

Except as provided in section 73-507 [containing certain exceptions]:

(1) All state agencies shall comply with the review and competitive bidding processes provided in this section for contracts for services. Unless otherwise exempt, no state agency shall expend funds for contracts for services without complying with this section;

(2) All proposed state agency contracts for services in excess of fifty thousand dollars shall be bid in the manner prescribed by the materiel division procurement manual or a process approved by the Director of Administrative Services. Bidding may be performed at the state agency level or by the materiel division. Any state agency may request that the materiel division conduct the competitive bidding process;

(3) If the bidding process is at the state agency level, then state agency directors shall ensure that the bid documents for each contract for services in excess of fifty thousand dollars are prereviewed by the materiel division and that any changes to the proposed contract that differ from the bid documents in the proposed contract for services are reviewed by the materiel division before signature by the parties;

(4) State agency directors, in cooperation with the materiel division, shall be responsible for appropriate public notice of an impending contractual services project in excess of fifty thousand dollars in accordance with the materiel division's procurement manual and sections 73-501 to 73-509; and

(5) State agency directors, in cooperation with the materiel division, shall be responsible for ensuring that a request for contractual services

in excess of fifty thousand dollars is filed with the materiel division for dissemination or web site access to vendors interested in competing for contracts for services.

To the extent that construction services are within Nebraska's coverage under the GPA,<sup>3</sup> the DAS Building Division also has authority with respect to government procurement in that area. For example, Neb. Rev. Stat. § 81-1108.15 (1999) provides, in part, that:

The [DAS Building] division shall have the primary functions and responsibilities of statewide facilities planning, facilities construction, and facilities administration and shall adopt and promulgate rules and regulations to carry out this section.

Nebraska statutes also require DAS and its procurement divisions to purchase goods and services through competitive bids and in an open and competitive environment. An example of such requirements is Neb. Rev. Stat. § 81-161 (2003), which states, as is pertinent:

All purchases, leases, or contracts which by law are required to be based on competitive bids shall be made to the lowest responsible bidder, taking into consideration the best interests of the state, the quality or performance of the personal property proposed to be supplied, the conformity with specifications, the purposes for which required, and the times of delivery.

See also, Neb. Rev. Stat. § 81-1118 (Supp. 2003); Neb. Rev. Stat. § 72-803 (2003).

On the basis of the lengthy discussion above, it appears to us that the GPA, as applied to government procurement in Nebraska by Governors Nelson and Johanns, is consistent and compatible with existing Nebraska law. Moreover, by agreeing to require Nebraska's central procurement agency to conduct certain government procurements in accordance with the GPA, Governor Johanns essentially agreed that a state agency under his direction and control would perform tasks which it was already authorized to do in a manner consistent with its statutory authority. We believe that the Governor has the ability to act in that fashion, even absent some specific directive to join in the GPA.<sup>4</sup> It is also apparent that neither Governor Nelson nor Governor Johanns signed an actual treaty with foreign governments which would require the State of Nebraska to follow new procurement practices. Such an action by the Governor might well raise questions concerning improper exercise of legislative authority. Instead, both governors simply agreed to conduct certain government procurements in Nebraska in conformance with the GPA, and in a manner consistent with existing statutory authority for agencies under their control. For those reasons, we believe that current Nebraska statutes do allow the Governor to join the State in the GPA procurement provisions of those trade agreements which the USTR is currently negotiating. If you wish a contrary result, then

you should go forward with the legislation proposed in your opinion request.

Question No. 2. What effect would the Governor's "consent" have if he did not, in fact, possess such authority? If the Governor does not have such authority, or, alternatively, if the Legislature passes a bill invalidating a past attempt by a state official to bind the State to trade agreements, I am concerned as to the effect this would have at the national level.

Since we have determined that the Governor does have authority to consent to application of the GPA to certain government procurements in Nebraska, it is not necessary for us to respond to the initial portion of your second question. However, given the proposed legislation set out in your opinion request and your concern about effects of state legislation at the national level, we will briefly comment on the second portion of your question.

Withdrawals of entities from the GPA and resultant modifications of GPA coverage are subject to Article XXIV of the Agreement. As we understand it, the United States government, at Nebraska's request, could withdraw coverage of Nebraska's government procurement from the GPA at any time. However, if that were to happen, then several consequences would flow from that withdrawal. First of all, the value of Nebraska's government procurement subject to the GPA would be calculated. Then, compensatory adjustments would quite likely be made to maintain a balance of rights and obligations and a comparable level of mutually agreed coverage under the Agreement. For example, other countries which are parties to the GPA could withdraw a like amount of their procurement from the GPA, which would mean that suppliers from Nebraska and other U.S. suppliers could lose some right to equal treatment regarding government procurement in other countries. Alternatively, compensatory adjustments might include a requirement that the federal government, as a party to the GPA and a member of the WTO, be required to make up the value of the Nebraska procurement lost in some fashion. Consequently, withdrawal of Nebraska's government procurement from application of the GPA could have adverse effects, both at the state and national levels.

<sup>1</sup>Apparently, Governor Nelson's 1993 letter also forms the basis for Nebraska's current participation in the GPA under the auspices of the WTO. Governor's Johann's letter of May 10 would simply extend that coverage to additional countries.

<sup>2</sup>We understand that it is likely that the USTR would defend whatever interpretation the Governor would place on the term "central procurement agency" for purposes of coverage under the GPA.

<sup>3</sup>The scope of coverage for a given entity under the GPA is determined both by the Agreement and by the coverage designation of the entity itself. As noted above, Nebraska has designated its "central procurement agency"

as subject to the GPA. If that designation pertains to the Materiel Division alone, that agency has no authority to supervise the erection or construction of buildings under Neb. Rev. Stat. § 81-146 (2003). However, to the extent that Nebraska's designation includes the Building Division of DAS, that agency has authority regarding the construction of buildings.

<sup>4</sup>Indeed, we believe that the Governor could direct state purchasing agencies to make government procurements under the same terms as those set out in the GPA, even if the GPA did not exist, so long as countries of non-resident bidders did not establish preferences for their residents in government procurement.

Sincerely yours,  
JON BRUNING  
Attorney General  
(Signed) Dale A. Comer  
Assistant Attorney General

cc: Patrick O'Donnell  
Clerk of the Legislature  
05-266-21

Opinion 04022

DATE: August 14, 2004

SUBJECT: Authority Of The Legislature's Performance Audit Committee To Review Confidential Records In Connection With A Performance Audit Of A State Agency.

REQUESTED BY: Sen. Chris Beutler  
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General  
Dale A. Comer, Assistant Attorney General

The Nebraska Legislative Performance Audit Act (the "Act") is found at Neb. Rev. Stat. §§ 50-1201 through 50-1215 (Supp. 2003, 2004 Neb. Laws LB 1118, §§ 1,2). That Act generally provides that a special legislative committee known as the Legislative Performance Audit Committee (the "Committee") shall conduct performance audits of state agencies and their programs and activities. Those audits are intended to provide an independent assessment of state agencies and their programs. Those audits consider such things as the effectiveness and results of programs, agency economy and efficiency, internal control by state agencies, and agency compliance with legal and other requirements.

Some question has apparently arisen with respect to the Committee's

ability to obtain "confidential information" during the course of its audit work, and you introduced a bill during the last legislative session that clarified the scope of the Committee's authority. You have now posed two questions to us regarding that authority, and we will discuss each of your questions below. However, for purposes of our discussion, we will address your second question first.

Question No. 2. Whether the Legislative Performance Audit Committee's authority to obtain confidential information and records mirrors the authority of the Auditor of Public Accounts. In other words, is the Auditor's authority to access confidential information broader, narrower, or the same as that of the Legislative Performance Audit Committee?

Two Nebraska statutes deal with the authority of the Auditor of Public Accounts to access records in the possession of state agencies.<sup>1</sup> First of all, the initial sentence of Neb. Rev. Stat. § 84-304 (3)(2004 Neb. Laws LB 1118, § 3) provides that it shall be the duty of the Auditor:

To examine or cause to be examined, as such time as he or she shall determine, books, accounts, vouchers, records, and expenditures of all state officers, state bureaus, state boards, state commissioners, the state library, societies and associations supported by the state, state institutions, state colleges, and the University of Nebraska, except when required to be performed by other officers or persons.

In addition, Neb. Rev. Stat. § 84-305 (1999) states that:

The Auditor of Public Accounts shall have access to all records of any public entity, in whatever form or mode the records may be, unless the auditor's access to the records is specifically prohibited or limited by federal or state law. No provisions of state law shall be construed to change the nonpublic nature of the data obtained as a result of the access. When an audit or investigative finding emanates from nonpublic data which is nonpublic pursuant to federal or state law, all the nonpublic information shall not be made public.

Section 84-305 was added to the statutes by 1995 Neb. Laws LB 509, § 4. The purpose of that provision from LB 509 was to "clarify the Auditor's access to nonpublic information." Committee Records on LB 509, 94th Neb. Leg., 1st Sess. Introducer's Statement of Intent (February 15, 1995). It was designed to guarantee the Auditor access to all records. Floor Debate on LB 509, 94th Neb. Leg., 1st Sess. 3566 (March 30, 1995)(Statement of Sen. Hall).

In contrast, § 50-1205 provides that the Committee shall:

(7) Inspect and examine, or approve the inspection and examination of, the records and documents of any agency as a part of a performance

audit or preaudit inquiry;

(8) Administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and cause the depositions of witnesses either residing within or without the state to be taken in the manner prescribed by law for taking depositions in civil actions in the district court.

A comparison of the statutes set out above permits several observations. First, the Committee has the power to subpoena witnesses and compel the production of documents, while the Auditor does not. In that sense, the Committee's general authority to access information is broader than that of the Auditor. However, when the Committee's authority to access documents outside of its subpoena power is compared with that of the Auditor, the circumstances are different. In the latter situation, § 84-305 allows the Auditor to review "all records of any public entity, in whatever form or mode the records may be, unless the auditor's access to the records is specifically prohibited or limited by federal or state law," and that language was apparently intended to allow the auditor to reach "nonpublic information." No similar language is contained in § 50-1205 (7), and that statute essentially tracks § 84-304 (3). For that reason, we believe that the Auditor's authority to review confidential information is broader than the Committee's authority in that regard.

Question No. 1. Whether the Legislative Performance Audit Committee has the inherent authority to access any and all of an agency's information and records, confidential or otherwise, in whatever form they may be. I am concerned as to (1) how the term "confidential" is defined, (2) whether an agency could assert any sort of privilege in response to the Committee's request for information, and (3) whether any other provisions of state or federal law would operate to limit the Committee's access to information.

We will turn next to your first question, and begin our discussion with the Committee's authority to review records and other information under its general statute, § 50-1205 (7).

We have found no Nebraska cases which directly address the scope of the Committee's authority to obtain "confidential" or privileged information as it goes about its responsibilities to conduct performance audits. Nor are there any Nebraska statutes which directly address that issue. Our research also indicates that there is little law from other jurisdictions which is helpful in this area. Therefore, we would first point out that the law concerning your initial inquiry is not clear. However, we can again offer several observations concerning the Committee's authority to obtain "confidential" information.

First of all, on its face, § 50-1205 (7) does not appear to contain any restrictions upon the Committee's authority to obtain access to records, including confidential records. Nonetheless, as we discussed above in

response to your second question, the Auditor appears to have more general authority to examine confidential records than does the Committee, based upon § 84-305. It seems to us that the Auditor's broader statute might form the basis for an argument that the Committee does not have authority to access confidential or "nonpublic" information under § 50-1205 (7) alone.

It also might be argued that certain other Nebraska statutes impact the Committee's ability to access confidential information. For example, Neb. Rev. Stat. § 84-712.05 (Cum. Supp. 2002), which is part of the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (1999, Cum. Supp. 2002), sets out a number of categories of records which may be kept confidential from the public at the discretion of the custodian of those records, and that statute could form the basis for an assertion of confidentiality in response to a Committee audit request.<sup>2</sup> However, we have indicated in the past that, in our view, the Public Records Statutes do not provide a basis to deny the Auditor access to particular records for audit purposes. Op. Att'y Gen. No. 92116 (October 9, 1992). In addition, there is some case authority from other jurisdictions for the proposition that exemptions from disclosure under a state freedom of information statute only limit disclosure under the public's general right to review records, and do not limit disclosure to any agency vested with investigative or subpoena power. *Head v. Colloton*, 331 N.W.2d 870 (Ia. 1983). For those reasons, we believe that § 84-712.05 limits the public's right to access records under the Public Records Statutes rather than the Committee's authority to review confidential records as a part of a performance audit.

There are also evidentiary privileges set out at Neb. Rev. Stat. §§ 27-501 through 27-513 (1995) and in common law. Those privileges allow certain communications such as those between an attorney and client or a physician and patient to be kept confidential. Authorities which have considered application of those privileges in the context of audits have come to varying conclusions.

The Attorney General of North Dakota has indicated that privileges set out in the North Dakota Rules of Evidence such as the attorney/client privilege apply only to court proceedings, and do not prevent the release of attorney billing information to the North Dakota State Auditor.<sup>3</sup> Op. N.D. Att'y Gen. No. L-1 (January 17, 1995). Similarly, the Attorney General of Delaware opined that a county auditor could review certain county billing records, even if they included potential information subject to the attorney/client privilege.<sup>4</sup> Op. Del. Att'y Gen. No. 04-IB09 (April 15, 2004). On the other hand, in *Kyle v. Louisiana Public Service Commission*, 2004 WL 691662 (La. Ct. App. April 2, 2004), the Louisiana Court of Appeals held that the Public Service Commission in Louisiana could assert both the attorney/client privilege and the deliberative process privilege to limit access to information sought by the legislative auditor in Louisiana in connection with a performance audit.<sup>5</sup> And, the Attorney General of Missouri has indicated that in situations where the attorney/client privilege or the attorney work product privilege is properly assertable in pending or imminent

litigation, the state auditor is not entitled to access to the litigation records of an agency. Op. Mo. Att'y Gen. No. 74-87 (October 5, 1987).

As a result, it is not at all clear whether evidentiary or common law privileges may be properly asserted with respect to a performance audit by the Committee. Moreover, we would also point out that a performance audit by the Committee is an audit of executive branch agencies by the Legislature and the legislative branch of government. Floor Debate on LB 607, 98th Neb. Leg., 1st Sess. 41 (February 12, 2003)(Statement of Sen. Schimek). That, in turn, raises questions regarding whether certain privileges which might be raised by an executive agency such as the executive privilege or the deliberative process privilege could raise separation of powers issues under art. II, § 1 of the Nebraska Constitution. For example, the Attorney General of Maryland has indicated that a statute which purports to give a legislative auditor authority to examine any record pertinent to an executive agency's performance cannot exceed those powers allocated to the legislative branch under the constitution and separation of powers principles. Op. Md. Att'y Gen. No. 91-014 (March 18, 1991).

We would also note that there may well be federal statutes which could operate to limit the Committee's access to certain information in the possession of executive agencies in Nebraska. However, at this point, we have not attempted to search all existing federal laws in an effort to locate such statutes. If you have specific statutes in mind, or if an agency offers a federal statute as a reason for confidentiality in the process of an audit by the Committee, then we will be happy to provide our views as to the applicability of that statute to the Committee's information request at that time.

Finally, we will briefly discuss the Committee's authority to review records and other information under § 50-1205 (8), the statute which allows the Committee to issue subpoenas and compel the production of papers, books, accounts and documents.

We assume that the Committee's subpoena power would be exercised under Section 20 of Rule 3 of the Rules of the Nebraska Legislature. Rules of the Nebraska Unicameral Legislature, Rule 3, § 20 (January 9, 2004). Subsection (F)(iii) of that section provides that "[a]ny person who appears before a committee pursuant to this section shall have all the rights, privileges, and responsibilities of a witness provided to all other witnesses." That subsection appears to allow witnesses before a legislative committee to assert evidentiary privileges such as the attorney/client privilege, and those privileges would presumably extend to documents produced under a subpoena duces tecum in connection with a performance audit.

### Summary

To summarize the discussion above, we believe that the Auditor's general authority to review records in the context of an audit is broader than that of

the Committee. That result may allow an argument that the Committee has less authority to review confidential records than does the Auditor. We also do not believe that the confidentiality provisions of the Public Records Statutes limit access by the Committee to agency records. However, agencies may well be able to assert evidentiary privileges in response to records requests from the Committee in connection with an audit, particularly when the records at issue implicate separation of powers issues and privileges. Some of the current uncertainties in the statutes could be remedied by clarifying legislation. In that regard, we would point out that it may be easier to overcome an evidentiary privilege in an audit by the Committee if there is a statutory provision similar to Neb. Rev. Stat. § 84-311 (1999) which places strictures on the Committee and its staff with respect to the unauthorized release of information obtained in an audit.

<sup>1</sup>In our Op. Att'y Gen. No. 02030 (December 2, 2002), we indicated that the Auditor of Public Accounts has inherent constitutional authority to conduct financial audits apart from his or her responsibilities under statute. For purposes of this opinion, we will focus on the statutory authority of the Auditor as it compares with that of the Committee, inasmuch as it appears to us that, while the Legislature as a body has inherent investigatory authority in the context of a proper legislative task, the Committee's authority is created primarily by statute and the Rules of the Legislature.

<sup>2</sup>It may well be that the "nonpublic" information at issue in the passage of § 84-305 was the information described in § 84-712.05. Whether that is, in fact, the case is not addressed in the legislative history of § 84-305.

<sup>3</sup>The North Dakota statutes at issue allowed the State Auditor to review "all information relating to operations of all governmental units subject to audit."

<sup>4</sup>The Delaware statutes at issue allowed the county auditor to access "any and all books, records and accounts of each office, department or board of the county."

<sup>5</sup>The deliberative process privilege protects confidential, intra-agency advisory opinions, disclosure of which would be injurious to the consultative functions of government. *Kyle v. Louisiana Public Service Commission*, 2004 WL 691662 (La. Ct. App. April 2, 2004)

Sincerely yours,  
JON BRUNING  
Attorney General  
(Signed) Dale A. Comer  
Assistant Attorney General

cc: Patrick O'Donnell  
Clerk of the Legislature

05-268-21

Opinion 04030

DATE: December 27, 2004

SUBJECT: Briefing Materials And Legal Memoranda Filed With  
A Court As Public Records

REQUESTED BY: Senator Patrick J. Bourne  
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General  
Dale A. Comer, Assistant Attorney General

In your opinion request letter, you indicate that you are considering potential legislation during the upcoming legislative session which would deal with court documents and the public records laws. Consequently, you have asked us, "are briefs and reply briefs submitted to a judge in a state district court action considered public records even though the briefs are not filed with the clerk of the court?"

Cases from the Nebraska Supreme Court have considered the public's right to access judicial records in two different contexts. First of all, in *State v. Cribbs*, 237 Neb. 947, 469 N.W.2d 108 (1991), the court indicated that there is a common-law right of access to judicial records, as recognized by the United State Supreme Court in *Nixon v. Warner Communications, Inc.*, 435 U.S. 589 (1978). The *Cribbs* case involved access to psychiatrist reports, medical and mental evaluations and other documents made a part of the official record in a hearing conducted to review the status of a person acquitted of first degree murder on grounds of insanity. In *Cribbs*, the court also stated that the common-law right to inspect and copy judicial records is not absolute, but that "[e]very court has supervisory power over its own records and files, and access has been denied where court files might have become a vehicle for improper purposes,' such as in divorce cases." *Cribbs*, 237 Neb. at 950, 469 N.W.2d at 110 (quoting *Nixon v. Warner Communications, Inc.*, 435 U.S. at 598).

The *Cribbs* case involved a right of access to evidence adduced at a judicial hearing rather than access to briefing materials or memoranda submitted to the court. However, other authorities have extended the common-law right to legal memoranda. In *re Providence Journal Company, Inc.*, 293 F.3d 1 (1st Cir. 2002); *The Republican Company v. Appeals Court*, 442 Mass. 218, 812 N.E.2d 887 (2004). In the federal case, the First Circuit stated that:

This presumptive [common-law] right of access attaches to those materials "which properly come before the court in the course of an adjudicatory proceeding and which are relevant to that adjudication." It

follows, then, that the common-law right of access extends to "materials on which a court relies in determining the litigants' substantive rights."

In *re Providence Journal Company, Inc.*, 293 F.3d 9, 10 (citations omitted). As a result, it appears to us that there is likely a common-law right for members of the public to access briefs and legal memoranda in Nebraska. However, that right is not absolute, and is subject to a court's supervisory power over its own records and files.

Apart from any common-law right to inspect records, the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (1999, Cum. Supp. 2002), pertain specifically to the public's right to review government records and documents. Two portions of those statutes are of particular pertinence. Section 84-712 (1) provides:

Except as otherwise expressly provided by statute, all citizens of this state, and all other persons interested in the examination of the public records, as defined in section 84-712.01, are hereby fully empowered and authorized to (a) examine the same, and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (2) of this section, and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business and (b) except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (3) of this section during the hours the respective offices may be kept open for the ordinary transaction of business.

The basic language of § 84-712 (1) has been in the Nebraska statutes since 1866. In addition, § 84-712.01 contains the following definition for public records in Nebraska:

Except when any other statute expressly provides that particular information or records shall not be made public, public records shall include all records and documents, regardless of physical form, of or belonging to this state, any county, city, village, political subdivision, or tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing. Data which is a public record in its original form shall remain a public record when maintained in computer files.

Based upon the broad language of §§ 84-712 (1) and 84-712.01, and in particular upon the language in § 84-712.01 which includes records of any "branch" or "department" of state government in the definition of public records, it would seem that judicial records are subject to those statutes. That conclusion is supported by several Nebraska cases.

In *State ex rel. Griggs v. Meeker*, 19 Neb. 106, 26 N.W. 620 (1886), the court held that the fee-book maintained by the clerk of the district court was

a public record. Similarly, the court held that dockets of a justice of the peace containing entries of judgment were public records. *State ex rel. Newby v. Ellsworth*, Justice of the Peace, 61 Neb. 444, 85 N.W. 439 (1901). In both of those cases, the court cited and quoted the language of a predecessor statute to § 84-712.

In *Orr v. Knowles*, 215 Neb. 49, 337 N.W.2d 699 (1983), the United States District Court for the District of Nebraska certified several questions of law to the Nebraska Supreme Court involving Neb. Rev. Stat. § 28-347 (Cum. Supp. 1982), a statute which prohibited abortions for minors in Nebraska without notice to the minor's parents or legal guardian. Subsection (2) of § 28-347 allowed a court to waive the notice requirement when petitioned to do so by the minor, and required a court to "maintain confidentiality" as to all such proceedings. The federal court asked the Nebraska Supreme Court whether the confidentiality provisions of § 28-347 (2) constituted an exception to the access requirements of § 84-712 and Neb. Rev. Stat. § 24-311 (1979).<sup>1</sup> Ultimately, the Nebraska Supreme Court ruled that § 28-347 (2) did constitute an exception to §§ 84-712 and 24-311. In reaching that result, the court stated:

While both of these statutes [§§ 84-712 and 24-311] state that judicial proceedings and records are matters of public interest, neither statute is absolute. Both provide that exceptions may be created by express and special provisions.

215 Neb. at 54, 55, 337 N.W.2d at 703. The fact that the Nebraska court considered the issue of whether § 28-347 (2) constituted an exception to disclosure of judicial records under the Public Records Statutes bolsters the notion that those statutes do apply to court records as well as to records of the other branches of government.

Therefore, it appears to us that records "of or belonging to" the judicial department of state government are records subject to the Public Records Statutes. Moreover, while the Nebraska Supreme Court has not specifically considered the issue, we believe that the court would be inclined to consider briefs and legal memoranda to be public records, even though those materials are not filed with the clerk of the court. That latter conclusion is based upon the broad language of the Public Records Statutes and the common-law case authorities cited above. Obviously, for your legislative purposes, the statutes could also be amended in some fashion to specifically include briefs and legal memoranda as public records.

We would offer several additional observations. First, to the extent that briefs and legal memoranda are subject to the Public Records Statutes, they are also subject to the provisions of § 84-712.05 which allow certain categories of records to be kept confidential. Second, the courts may possibly take the position that any obligation which they have to produce records including briefs and legal memoranda under the Public Records Statutes is subject to their supervisory power over their own records and

files. Finally, we would point out that when a public body or public agency is a party litigant, access to briefing materials in the litigation may be obtained from the public entity as well as from the courts, inasmuch as those briefing materials would presumably also be records "of or belonging to" the public entity.

<sup>1</sup>Neb. Rev. Stat. § 24-311 (1979) provided:

All judicial proceedings of all courts established in this state must be open to the attendance of the public unless otherwise specially provided by statute.

Sincerely yours,  
JON BRUNING  
Attorney General  
(Signed) Dale A. Comer  
Assistant Attorney General

05-294-21

## REPORTS

The following reports were received by the Legislature:

### **Administrative Services, Department of**

Annual Budgetary Report for year ended June 30, 2004

Comprehensive Annual Financial Report year ended June 30, 2003

Project Status Summaries as of June 2004

Risk Management/State Claims Board, 2003-2004 Tort-Miscellaneous,  
Contract-Indemnification

### **Agriculture, Department of**

Beginning Farmer Tax Credit Act Annual Report

### **Arts Council**

Arts and Humanities Cash Fund Report

### **Attorney General**

2003 Annual Report

### **Auditor of Public Accounts**

Attestation report for the following:

Commission on the Status of Women, year ended June 30, 2004

Revenue, Department of, as of 6/30/2003

Audit reports for the following:

Nebraska Lottery

Retirement Systems, Public Employees - State and County Employees  
Retirement Plans

### **Correctional Services, Department of**

Work Ethic Camp Annual Report

### **Economic Development, Department of**

2004 Annual Report for the Venture Capital Forum Program

2004 Annual Report on Grants Conditionally Approved for Funding by  
the Legislature

2005 Proposed Annual Action Plan of Housing and Community Development Programs

2005-2009 Proposed Consolidated Plan of Housing and Community Development Programs

**Environmental Quality, Department of**

2004 Annual Report

Class I Program Appropriations Report

**Fire Marshal, State**

Volunteer Emergency Responders Recruitment and Retention Act

**Fiscal Office, Legislative**

Certification of General Fund net receipts for fiscal year beginning July 1, 2004. Monthly receipt estimates derived from the annual net receipt estimate of the Economic Forecasting Advisory Board produced February 27, 2004

Revised Biennial Budget Report for FY2003-04 and FY2004-05

**Foster Care Review Board, State**

Annual Report

**Game and Parks Commission**

2004 Recreation Road Report

Game Law Investigation Cash Fund Annual Report

**Government, Military and Veterans Affairs Committee, Legislature**

2004 Nebraska Boards and Commissions Report

**Health and Human Services System**

Behavioral Health Implementation Plan (LB 1083)

Community Service Program Employable General Assistance Recipients Annual Report

Cost Sharing in the Medicaid Program Annual Report

LB 692 Report, 2004

Medicaid Eligibility of LB 8 Changes, Annual Report

Office of the System Advocate Quarterly Reports, January-March 2004, April-June 2004, and July-September 2004

Report - Number of adults declared ineligible for cash assistance under Section 68-1723

Women's Health, Office of, Annual Report

**Information Technology Commission**

Biennial Progress Report

Recommendations on Technology Investments, FY 2005-07 Biennium

**Insurance, Department of**

2003 Annual Report of the Interstate Insurance Receivership Commission

**Investment Council**

Health Care Endowment Fund (Tobacco Settlement Plus Medicaid IGT) Reports

Northern Ireland Investment Requirements Report

**Investment Finance Authority**

2002 Series A, B, C, D, E and F Community Development Loan Notes (City of Lincoln Program-2002) Quarterly Reports

2004 Series C, D & E Single Family Housing Revenue Bonds

2004 Series F & G Single Family Housing Revenue Bonds

2004 Series G.O.-17 General Obligation Bonds

2004 Series G.O.-18 General Obligation Bonds

Clean Water State Revolving Fund Revenue Bonds Series 2004 A  
Quarterly Report

Clean Water State Revolving Fund Revenue Bonds Series 2004B Notice

Drinking Water State Revolving Fund Revenue Bonds Series 2002 A,  
Quarterly Report

Drinking Water State Revolving Fund Revenue Bonds Series 2003 A,  
Quarterly Reports

Drinking Water State Revolving Fund Revenue Bonds Series 2004 A,  
Notice

Single Family Housing Revenue Bonds Series 2004 AB and General  
Obligation Bonds Series 2004 G.O.-16

Single Family Housing Revenue Bonds Series 2004 CDE and General  
Obligation Bonds Series 2004 G.O.-17

**Justice, Department of (See Attorney General)**

**Labor, Department of**

Workforce Development, Meatpacking Industry Worker Bill of Rights  
2004 Annual Report

Workforce Investment Board 2003 Annual Report

Workforce Investment Board modifications to the Strategic Five Year  
Plan

**Legislative Research Division (See Research Division, Legislative)**

**Liquor Control Commission**

Report concerning effectiveness of keg registration legislation

**Natural Resources, Department of**

Annual Report and Plan of Work for the Nebraska State Water Planning  
and Review Process

Resources Development Fund, 2004 Biennial Report

**Motor Vehicles, Department of**

2003 Annual Report

**Parole Board**

Annual Report

**Patrol, State**

2004 Winter Report

**Postsecondary Education, Coordinating Commission for**

2003-2004 Biennial Report

**Power Review Board**

"Conditions Certain" Annual Report

**Property Assessment and Taxation, Department of**

2004 Report of the Greenbelt Advisory Committee

**Public Service Commission**

2004 Annual Report on Telecommunications

**Research Division, Legislative**

Boards and Commissions in Nebraska, 2004

Performance Audit Committee Report entitled The Lincoln Regional  
Center's Billing Process

**Retirement Systems, Public Employees**

County Employees' Retirement System Cash Balance Benefit Fund

Judges' Retirement System, Thirty-ninth Actuarial Report for State Fiscal Year Ending June 30, 2006 and System Plan Year Beginning July 1, 2004

School Retirement System, Fifty-second Actuarial Report for State Fiscal Year Ending June 30, 2006 and System Plan Year Beginning July 1, 2004

State Employees' Retirement System Cash Balance Benefit Fund

State Patrol Retirement System, Forty-ninth Actuarial Report for State Fiscal Year Ending June 30, 2006 and System Plan Year Beginning July 1, 2004

### **Revenue, Department of**

2004 Tax Expenditure Report

Auditor of Public Accounts Report of Examination for Fiscal Year ended June 30, 2003

Certification of General Fund net receipts for fiscal year beginning July 1, 2004. Monthly receipt estimates derived from the annual net receipt estimate of the Economic Forecasting Advisory Board produced February 27, 2004

EPIC Report

Invest Nebraska Fund Audit Report

Nebraska Lottery Annual Report, 2004

### **Roads, Department of**

2004 Annual Report

Board of Examiners for County Highway and City Street Superintendents Annual Report

Board of Public Roads Classifications and Standards Minutes for March, April, May, June, July, and September 2004

Recreation Roads One-Year Plan of Anticipated Design, Construction and Improvement

Recreation Roads Five-Year Plan of Anticipated Design, Construction and Improvement

State Highway Commission Quarterly Reports

State Highway Inventory Supplemental Report for the 2003 State Highway Needs Assessment

State Highway Needs Assessment for 2004

Traffic Accident Facts Annual Report

### **Secretary of State**

Vote Nebraska Initiative Report

### **Supreme Court**

Office of Probation Administration's 2002-2003 Biennial Report

### **University of Nebraska**

Increasing Minority and Women Faculty Progress Report

### **Workforce Development (See Labor, Department of)**

## **COMMUNICATION**

Received a copy of Senate Resolution No. 115 from the State of Louisiana relating to memorializing the Congress of the United States to defeat legislation creating the Central American Free Trade Agreement.

**COMMITTEE ON COMMITTEES PRELIMINARY REPORT**

Senator Dw. Pedersen offered the following Committee on Committees report:

**Agriculture - Kremer (C)**

Burling Chambers	Cunningham Erdman	Fischer Preister	Wehrbein
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**Appropriations - Pederson, D. (C)**

Beutler Cudaback	Engel Heidemann	Kruse Price	Synowiecki Thompson
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**Banking, Commerce and Insurance - Mines (C)**

Flood Jensen	Johnson Langemeier	Louden Pahls	Redfield
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**Business and Labor - Cunningham (C)**

Burling Chambers	Combs Kremer	Preister Schimek
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**Education - Raikes (C)**

Bourne Byars	Howard Kopplin	McDonald Schrock	Stuhr
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**General Affairs - Janssen (C)**

Connealy Cornett	Erdman Fischer	Friend Landis	Wehrbein
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**Government, Military and Veterans Affairs - Schimek (C)**

Brown Burling	Fischer Langemeier	Mines Pahls	Wehrbein
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**Health and Human Services - Jensen (C)**

Byars Cunningham	Erdman Howard	Johnson Stuthman
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## Judiciary - Bourne (C)

Aguilar Chambers	Combs Flood	Foley Friend	Pedersen, Dw.
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## Natural Resources - Schrock (C)

Hudkins Kopplin	Kremer Louden	McDonald Smith	Stuhr
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## Nebraska Retirement Systems - Stuhr (C)

Bourne Erdman	Pederson, D. Price	Synowiecki
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## Revenue - Landis (C)

Baker Connealy	Cornett Janssen	Preister Raikes	Redfield
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## Transportation and Telecommunications - Baker (C)

Aguilar Brown	Foley Hudkins	Pedersen, Dw. Smith	Stuthman
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## Urban Affairs - Friend (C)

Combs Connealy	Cornett Janssen	Landis Schimek
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## Committee on Committees - Pedersen, Dw. (C)

Bourne Brashear Cudaback	Engel Jensen Kremer	Landis Pederson, D. Preister	Price Schimek Schrock
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## Enrollment and Review - Flood (C)

## Reference - Engel (C)

Beutler Brashear Chambers	Cudaback Erdman McDonald	Pederson, D. Stuthman Thompson
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## Rules - Hudkins (C)

Baker Beutler	Brashear Cornett	Thompson
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## Executive Board - Engel (C)

Beutler	Cudaback	Pederson, D.
Brashear	Erdman	Stuthman
Chambers	McDonald	Thompson

## Intergovernmental Cooperation - Aguilar (C)

Brashear	Combs	McDonald
Brown	Langemeier	Lt. Gov. Heineman

**ANNOUNCEMENT**

The Committee on Committees elected Senator Preister as Vice Chairperson.

**BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 1.** Introduced by Executive Board: Engel, 17, Chairperson.

FOR AN ACT relating to motor vehicles; to amend sections 60-484 to 60-484.02, 60-490, 60-4,115, 60-4,119, 60-4,120, 60-4,120.01, and 60-4,150, Reissue Revised Statutes of Nebraska; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to outright repeal section 60-1516, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 2.** Introduced by Executive Board: Engel, 17, Chairperson.

FOR AN ACT relating to health care facilities; to amend section 71-428, Revised Statutes Supplement, 2004; to correct an internal reference that includes outright repealed sections; and to repeal the original section.

**LEGISLATIVE BILL 3.** Introduced by Executive Board: Engel, 17, Chairperson.

FOR AN ACT relating to recreational lands; to amend section 37-734, Reissue Revised Statutes of Nebraska; to eliminate an exception found unconstitutional and severable in *Teters v. Scottsbluff Public Schools*, 256 Neb. 645, 592 N.W.2d 155 (1999); and to repeal the original section.

**LEGISLATIVE BILL 4.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to juveniles; to adopt the Interstate Compact for Juveniles; to provide for a compact administrator and an advisory council; and to outright repeal sections 43-1001 to 43-1010, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 5.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to the State Board of Education; to amend section 79-313, Reissue Revised Statutes of Nebraska; to change qualifications for membership; and to repeal the original section.

**LEGISLATIVE BILL 6.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to smoking and tobacco; to amend section 71-5707, Revised Statutes Supplement, 2004; to repeal the authority to establish certain designated smoking areas; and to repeal the original section.

**LEGISLATIVE BILL 7.** Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,157, Reissue Revised Statutes of Nebraska; to permit municipalities to allow pedestrians to solicit contributions on roadways as prescribed; to harmonize provisions; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 8.** Introduced by Landis, 46; Schrock, 38.

A BILL FOR AN ACT relating to environmental covenants; to amend section 76-288, Reissue Revised Statutes of Nebraska; to adopt the Uniform Environmental Covenants Act; to harmonize provisions; to provide severability; and to repeal the original section.

**LEGISLATIVE BILL 9.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to county zoning; to amend section 23-174.03, Reissue Revised Statutes of Nebraska; to change provisions relating to subdivision plats; and to repeal the original section.

**LEGISLATIVE BILL 10.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to wages; to amend section 48-1220, Reissue Revised Statutes of Nebraska; to modify the definition of employer for purposes of sexual discrimination; and to repeal the original section.

**LEGISLATIVE BILL 11.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to state government; to authorize use of electronic postmarks as prescribed.

**LEGISLATIVE BILL 12.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-120.02, 48-145, 48-145.01, 48-146.02, 48-152, 48-162.01, and 48-188, Reissue Revised Statutes of Nebraska; to change provisions relating to enforcement of the Nebraska Workers' Compensation Act; and to repeal the original sections.

**LEGISLATIVE BILL 13.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-121.02, 48-144, 48-144.03, 48-145.02, 48-145.04, 48-155, 48-157, 48-158, 48-159, 48-162, 48-162.02, 48-163, 48-165, and 48-1,116, Reissue Revised Statutes of Nebraska; to change provisions relating to court administration; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 14.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to the State Natural Gas Regulation Act; to amend sections 66-1840 and 66-1841, Reissue Revised Statutes of Nebraska; to change provisions relating to the Public Service Commission; and to repeal the original sections.

**LEGISLATIVE BILL 15.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 60-3005, 60-3006, 77-1345.01, 77-1510, 77-4105, 77-5018, 77-5019, 77-5026, and 77-5028, Reissue Revised Statutes of Nebraska, and sections 77-202.04, 77-1514, 77-5004, 77-5005, 77-5007, and 77-5016, Revised Statutes Supplement, 2004; to change appeal procedures; to change deadlines as prescribed; to change and eliminate provisions relating to the Tax Equalization and Review Commission; to harmonize provisions; to repeal the original sections; to outright repeal section 77-5032, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**LEGISLATIVE BILL 16.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2712.05, Revised Statutes Supplement, 2004; to change provisions relating to the streamlined sales and use tax agreement; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 17.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-3508, Reissue Revised Statutes of Nebraska; to change application procedures for homestead exemptions as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 18.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1719.03, Reissue Revised Statutes of Nebraska; to change a provision relating to collection of delinquent property taxes; and to repeal the original section.

**LEGISLATIVE BILL 19.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2734.02, Reissue Revised Statutes of Nebraska; to change corporate income tax calculations; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 20.** Introduced by Kremer, 34; Schrock, 38.

A BILL FOR AN ACT relating to the Livestock Brand Act; to amend sections 54-170, 54-171, 54-183, and 54-415, Reissue Revised Statutes of Nebraska; to define a term; to change provisions relating to feral swine; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 21.** Introduced by Erdman, 47.

A BILL FOR AN ACT relating to the State Boat Act; to amend section 37-1241.07, Reissue Revised Statutes of Nebraska; to eliminate a restriction on operation of leased watercraft as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 22.** Introduced by Erdman, 47.

A BILL FOR AN ACT relating to cities of the second class and villages; to amend section 17-522, Reissue Revised Statutes of Nebraska; to change provisions relating to sidewalk construction, repair, and maintenance; to provide for owner liability in certain cases; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 23.** Introduced by Erdman, 47.

A BILL FOR AN ACT relating to the Game and Parks Commission; to amend section 37-101, Reissue Revised Statutes of Nebraska; to change provisions relating to membership and terms; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 24.** Introduced by Erdman, 47; Combs, 32; Flood, 19.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-6,151, Reissue Revised Statutes of Nebraska; to provide requirements for drivers near parked authorized emergency vehicles; and to repeal the original section.

**LEGISLATIVE BILL 25.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to the Board of Cosmetology Examiners; to amend sections 71-374 and 71-375, Reissue Revised Statutes of Nebraska; to add members to the board; to delete obsolete provisions; to harmonize

provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 26.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to body art; to amend section 71-3,236, Revised Statutes Supplement, 2004; to prohibit the performance or application of body art on or to certain persons; and to repeal the original section.

**LEGISLATIVE BILL 27.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to body art; to amend section 71-340, Revised Statutes Supplement, 2004; to provide for special body art events; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 28.** Introduced by Connealy, 16; Baker, 44; Bourne, 8.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701, Revised Statutes Supplement, 2004; to provide an income tax credit for certain charitable contributions; to provide a termination date; to create a commission; to provide operative dates; and to repeal the original section.

**LEGISLATIVE BILL 29.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to wildlife; to amend section 37-524.01, Reissue Revised Statutes of Nebraska; to change provisions relating to feral swine; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 30.** Introduced by Natural Resources Committee: Schrock, 38, Chairperson; Hudkins, 21; Kremer, 34; Loudon, 49; McDonald, 41; Stuhr, 24.

A BILL FOR AN ACT relating to liquefied petroleum gas; to require a notice to customers; to provide for immunity from damages for retailers, suppliers, handlers, and transporters as prescribed.

**LEGISLATIVE BILL 31.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to the Nebraska Ground Water Management and Protection Act; to amend section 46-735, Reissue Revised Statutes of Nebraska; to change provisions relating to construction of water wells in ground water management areas as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 32.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to natural resources districts; to amend

section 2-3218, Revised Statutes Supplement, 2004; to change provisions relating to per diem payments for board members as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 33.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to the Nebraska Litter Reduction and Recycling Act; to amend section 81-1566, Revised Statutes Supplement, 2004; to change a termination date; and to repeal the original section.

**LEGISLATIVE BILL 34.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to the Game Law; to amend section 37-201, Reissue Revised Statutes of Nebraska; to provide for hunting, trapping, and target practice in designated public areas; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 35.** Introduced by Schimek, 27.

A BILL FOR AN ACT relating to elections; to amend sections 23-3557, 23-3575, 32-331, 32-558, 32-559, 32-807, 32-808, 32-936, 32-938 to 32-952, 32-958, 32-1027, 32-1030, 32-1031, 32-1032, 32-1502, 32-1539, 32-1544, 42-1207, and 53-122, Reissue Revised Statutes of Nebraska, and section 10-703.01, Revised Statutes Supplement, 2004; to provide for early voting; to delete references to absentee voting; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 36.** Introduced by Schimek, 27.

A BILL FOR AN ACT relating to elections; to amend sections 32-101, 32-115, 32-302, 32-306, 32-308, 32-310, 32-319, 32-321, 32-325, 32-914, 32-933, 32-935 to 32-937, 32-940, 32-941, 32-945, 32-1503, 32-1528, and 32-1531, Reissue Revised Statutes of Nebraska; to provide for voter registration on election day as prescribed; to change provisions relating to registration and voting; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 37.** Introduced by Schimek, 27.

A BILL FOR AN ACT relating to public lands, buildings, and funds; to amend sections 72-724 and 72-728, Reissue Revised Statutes of Nebraska; to change provisions involving appointments to the Nebraska Hall of Fame Commission; to require public hearings; to modify qualifications for inductees to the Nebraska Hall of Fame; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 38.** Introduced by Raikes, 25; D. Pederson, 42.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections

77-3442 and 85-1536.01, Revised Statutes Supplement, 2004; to authorize an additional levy by community colleges as prescribed; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 39.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to the State Forester; to amend section 85-162.04, Reissue Revised Statutes of Nebraska; to change provisions relating to personnel; and to repeal the original section.

**LEGISLATIVE BILL 40.** Introduced by Redfield, 12; Jensen, 20; Snowniecki, 7.

A BILL FOR AN ACT relating to real property; to amend sections 76-901, 76-903, and 77-1327, Reissue Revised Statutes of Nebraska; to change the documentary stamp tax fee; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 41.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to public funds; to amend section 77-2365.01, Revised Statutes Supplement, 2004; to change provisions relating to deposits with certain credit unions; and to repeal the original section.

**LEGISLATIVE BILL 42.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to liens; to amend sections 52-125, 52-126, 52-127, 52-132, 52-140, 52-141, 52-142, 52-145, 52-154, 52-155, 52-157, and 52-159, Reissue Revised Statutes of Nebraska; to change provisions relating to the Nebraska Construction Lien Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 43.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to employment; to provide immunity for employers for disclosure of employment information as prescribed.

**LEGISLATIVE BILL 44.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3501, 77-3509.01 to 77-3509.03, 77-3510 to 77-3514, 77-3516, 77-3521, 77-3522, 77-3523, and 77-3529, Reissue Revised Statutes of Nebraska, and section 77-2716.01, Revised Statutes Supplement, 2004; to change income tax deductions as prescribed; to create a homestead exemption; to harmonize provisions; to provide operative dates; and to repeal the original sections.

**LEGISLATIVE BILL 45.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3501, 77-3509.01 to 77-3509.03, 77-3510 to 77-3514, 77-3516, 77-3521, 77-3522, 77-3523, and 77-3529, Reissue Revised Statutes of Nebraska, and section 77-2716.01, Revised Statutes Supplement, 2004; to change income tax deductions as prescribed; to create a homestead exemption; to harmonize provisions; to provide operative dates; and to repeal the original sections.

**LEGISLATIVE BILL 46.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3501, 77-3509.01 to 77-3509.03, 77-3510 to 77-3514, 77-3516, 77-3521, 77-3522, 77-3523, and 77-3529, Reissue Revised Statutes of Nebraska, and section 77-2716.01, Revised Statutes Supplement, 2004; to change income tax deductions as prescribed; to create a homestead exemption; to harmonize provisions; to provide operative dates; and to repeal the original sections.

**LEGISLATIVE BILL 47.** Introduced by Landis, 46; Beutler, 28.

A BILL FOR AN ACT relating to postsecondary education; to adopt the Distinguished Professorship Act.

**LEGISLATIVE BILL 48.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to natural gas; to amend sections 66-1801, 66-1804, 66-1852, and 75-109.01, Reissue Revised Statutes of Nebraska, and section 13-2802, Revised Statutes Supplement, 2004; to change provisions relating to the State Natural Gas Regulation Act; to provide and change powers and duties; to repeal the original sections; and to outright repeal sections 57-1301 to 57-1307, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 49.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to securities; to amend sections 8-1723, 8-1726, 21-2116, 44-708, 45-101.04, 45-191.09, 45-1004, 58-703, 58-711, 59-1715, 59-1722, 59-1724, 59-1725.01, 69-2117, 70-734, 76-882, 76-1304, 76-1717, 76-2120, and 81-1270, Reissue Revised Statutes of Nebraska, and sections 8-1122.01, 23-35, 116, 29-110, and 87-301, Revised Statutes Supplement, 2004; to adopt the Nebraska Uniform Securities Act; to provide penalties; to rename and create a fund; to eliminate certain provisions of the Securities Act of Nebraska; to eliminate obsolete language; to harmonize provisions; to provide severability; to provide an operative date; to repeal the original sections; and to outright repeal sections 8-1102, 8-1104, 8-1106, 8-1107, 8-1108, 8-1108.02, 8-1108.03, 8-1109, 8-1112, 8-1114, 8-1115, 8-1118, and 8-1119, Reissue Revised Statutes of Nebraska, and sections 8-1101, 8-1103, 8-1105, 8-1108.01, 8-1109.01, 8-1109.02, 8-1110, 8-1111, 8-1113, 8-1116, 8-1117, 8-1120, 8-1121, 8-1122, and 8-1123, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 50.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to housing; to amend sections 20-132, 20-134, 20-301, 20-303, 20-317, 20-318, 20-320, 20-321, 20-325, 68-1605, 71-15,134, and 76-1495, Reissue Revised Statutes of Nebraska, and section 20-139, Revised Statutes Supplement, 2004; to define terms; to prohibit discrimination based upon sexual orientation; to harmonize provisions; to provide severability; and to repeal the original sections.

**LEGISLATIVE BILL 51.** Introduced by Kremer, 34.

A BILL FOR AN ACT relating to the Department of Agriculture; to amend section 81-201, Revised Statutes Supplement, 2004; to authorize laboratory testing services; to create a fund; and to repeal the original section.

**LEGISLATIVE BILL 52.** Introduced by Kremer, 34.

A BILL FOR AN ACT relating to agriculture; to amend sections 75-903, 75-905, and 89-1,105, Reissue Revised Statutes of Nebraska, and sections 88-528 and 88-530.01, Revised Statutes Supplement, 2003; to change provisions relating to grain dealers, grain warehouses, and measuring devices; to provide operative dates; and to repeal the original sections.

**LEGISLATIVE BILL 53.** Introduced by Schimek, 27; Chambers, 11; Kruse, 13; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to voting rights; to amend sections 32-312, 32-313, and 32-1530, Reissue Revised Statutes of Nebraska, and sections 29-112, 29-113, 29-2264, and 83-1,118, Revised Statutes Supplement, 2004; to provide for the restoration of voting rights upon completion of a felony sentence or probation for a felony; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 54.** Introduced by Schimek, 27; Aguilar, 35; Janssen, 15; McDonald, 41; Preister, 5.

A BILL FOR AN ACT relating to veterans; to amend sections 12-104, 19-1830, 23-1309, 23-1310, 37-420, 48-225, 60-311.03, 60-311.04, 60-311.08, 60-3002, 71-605, 71-1002, 77-202.24, 77-3508, 77-3509, 77-3513, 77-3514, 80-102, 80-104, 80-105, 80-107, 80-316, 80-318, 80-325, 80-401.01, 80-401.03, 80-401.06, 80-410, and 80-412, Reissue Revised Statutes of Nebraska, and sections 12-1301 and 80-401.02, Revised Statutes Supplement, 2004; to redefine terms; to change qualifications; to reorganize provisions; to modify exemptions; to clarify eligibility for benefits; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 55.** Introduced by Foley, 29.

A BILL FOR AN ACT relating to the Commission for the Blind and

Visually Impaired Act; to amend sections 71-8603 and 71-8612, Reissue Revised Statutes of Nebraska; to redefine a term; to change funding provisions; and to repeal the original sections.

**LEGISLATIVE BILL 56.** Introduced by Foley, 29.

A BILL FOR AN ACT relating to counties; to authorize counties to enact ordinances as prescribed; and to provide powers and duties.

**LEGISLATIVE BILL 57.** Introduced by Foley, 29.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 60-6,198, Reissue Revised Statutes of Nebraska, and section 28-101, Revised Statutes Supplement, 2004; to adopt the Assault of an Unborn Child Act; to provide penalties; to provide a penalty for causing serious bodily injury to an unborn child while driving under the influence; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 58.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to employment; to amend sections 81-113, 81-117, and 84-1001, Reissue Revised Statutes of Nebraska; to eliminate recognition of holiday proclamations by the President of the United States; and to repeal the original sections.

**LEGISLATIVE BILL 59.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to economic development; to amend section 81-1298, Revised Statutes Supplement, 2004; to change a definition in the Microenterprise Development Act; and to repeal the original section.

**LEGISLATIVE BILL 60.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to insurance; to provide for priorities of coverage on rental cars.

**LEGISLATIVE BILL 61.** Introduced by Burling, 33.

A BILL FOR AN ACT relating to adoption; to amend section 43-146.17, Reissue Revised Statutes of Nebraska; to change provisions relating to access to information; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 62.** Introduced by Beutler, 28; Friend, 10.

A BILL FOR AN ACT relating to medical liens; to amend section 52-401, Reissue Revised Statutes of Nebraska; to provide for liens for chiropractors; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 63.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-108, 60-117, 60-301, 60-304, 60-305.03, 60-305.04, 60-310, 60-311, 60-311.02 to 60-311.05, 60-311.07 to 60-311.14, 60-311.16, 60-311.17, 60-311.21, 60-311.23, 60-311.25, 60-315, 60-315.01, 60-320, 60-321, 60-323, 60-324, 60-331, 60-331.03, 60-334, 60-335, 60-345, 60-347, 60-361, 60-364, 60-683, 60-6,197.01, 60-1306, 60-1901 to 60-1903, and 60-1908, Reissue Revised Statutes of Nebraska, and sections 18-1736, 18-1737, and 81-2005, Revised Statutes Supplement, 2004; to provide for one license plate and In Transit decal per vehicle; to change provisions relating to license plates; to eliminate obsolete language; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 64.** Introduced by Synowiecki, 7; Cornett, 45.

A BILL FOR AN ACT relating to peace officers; to adopt the Peace Officer Employer-Employee Relations Act.

**LEGISLATIVE BILL 65.** Introduced by Foley, 29; Pahls, 31; Schrock, 38.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-310, 60-311.11, and 60-315, Reissue Revised Statutes of Nebraska; to provide for Military Plates; to change provisions for message plates; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 66.** Introduced by D. Pederson, 42; Engel, 17; Kruse, 13; Smith, 48.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-201, Revised Statutes Supplement, 2004; to provide for special valuation of historically significant real property; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 67.** Introduced by Smith, 48.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-682.01, Reissue Revised Statutes of Nebraska; to change provisions relating to fines for speeding in a construction zone; and to repeal the original section.

**LEGISLATIVE BILL 68.** Introduced by Smith, 48; Baker, 44.

A BILL FOR AN ACT relating to license plates; to amend sections 60-311.03, 60-311.04, 60-311.08, and 60-311.09, Reissue Revised Statutes of Nebraska; to provide for issuance of certain license plates to spouses of veterans as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 69.** Introduced by Smith, 48; Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-4,182, Reissue Revised Statutes of Nebraska; to eliminate provisions relating to protective helmets as prescribed; to harmonize provisions; to repeal the original section; and to outright repeal sections 60-6,278 to 60-6,282, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 70.** Introduced by Smith, 48; Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 39-2215, 60-336, 60-4,115, 60-4,127, 60-4,128, 60-4,182, 60-6,279, 60-2125, 60-2126, 60-2129, 60-2130, 60-2131, 60-2132, 60-2133, and 60-2135 to 60-2139, Reissue Revised Statutes of Nebraska; to adopt the Motorcycle Safety and Training Act; to change and eliminate provisions relating to motorcycle safety and helmets; to create a fund and terminate a fund; to provide a penalty; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 60-2120, 60-2121, 60-2127, 60-2128, and 60-2134, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 71.** Introduced by Stuhr, 24; Baker, 44; Burling, 33; Combs, 32; Connealy, 16; Cunningham, 40; Erdman, 47; Fischer, 43; Hudkins, 21; Janssen, 15; Kremer, 34; Loudon, 49; Raikes, 25; Smith, 48; Wehrbein, 2.

A BILL FOR AN ACT relating to economic development; to reenact the Agricultural Opportunities and Value-Added Partnerships Act; to provide a termination date; to eliminate an obsolete provision; and to outright repeal sections 2-5401 to 2-5412 and 90-527, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 72.** Introduced by Stuhr, 24; Aguilar, 35.

A BILL FOR AN ACT relating to security services; to adopt the Security Personnel Licensing Act; and to provide penalties.

**LEGISLATIVE BILL 73.** Introduced by Aguilar, 35; Janssen, 15; Loudon, 49.

A BILL FOR AN ACT relating to insurance; to amend section 44-1540, Revised Statutes Supplement, 2004; to provide requirements and duties relating to motor vehicle repairs; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 74.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1480.01 and 49-1482, Reissue Revised Statutes of Nebraska; to change lobbyist registration fees; to

provide for distribution of the fees; and to repeal the original sections.

**LEGISLATIVE BILL 75.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to public improvements; to amend section 15-201, Reissue Revised Statutes of Nebraska, and section 14-102, Revised Statutes Supplement, 2004; to authorize cities of the primary class and metropolitan class to make public improvements and assess the cost of the improvements; and to repeal the original sections.

**LEGISLATIVE BILL 76.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-462, 60-465, 60-4,131, 60-4,132, 60-4,137, 60-4,143, 60-4,144, 60-4,149.01, 60-4,159, and 60-4,168, Reissue Revised Statutes of Nebraska, and section 29-3608, Revised Statutes Supplement, 2004; to change provisions relating to commercial driver's licenses; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 77.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 39-2401, 60-360, 77-1342, and 79-1018.01, Reissue Revised Statutes of Nebraska, and section 13-518, Revised Statutes Supplement, 2004; to change distribution and allocation of certain motor vehicle registration fees; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 78.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Nebraska Railway Council; to amend section 74-1413, Reissue Revised Statutes of Nebraska; to provide for payment of per diems and expenses by the Department of Roads; and to repeal the original section.

**LEGISLATIVE BILL 79.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to railroad safety; to amend section 74-1334, Reissue Revised Statutes of Nebraska; to change provisions relating to crossings; and to repeal the original section.

**LEGISLATIVE BILL 80.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,187, Reissue Revised Statutes of Nebraska; to eliminate certain speed restrictions for school buses; to change provisions relating to lights on motor-driven cycles; and to repeal the original section.

**LEGISLATIVE BILL 81.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to law enforcement; to amend sections 60-304 and 60-480.01, Reissue Revised Statutes of Nebraska; to authorize the issuance of undercover license plates and undercover drivers' licenses to federal law enforcement agencies; and to repeal the original sections.

**LEGISLATIVE BILL 82.** Introduced by Janssen, 15; Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-6,288 to 60-6,290 and 60-6,294, Reissue Revised Statutes of Nebraska; to provide an exception from width, height, length, weight, and load restrictions for authorized emergency vehicles and similar vehicles; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 83.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor carriers; to amend sections 75-363 and 75-364, Revised Statutes Supplement, 2004; to adopt updated federal Motor Carrier Safety Regulations and federal Hazardous Material Regulations; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 84.** Introduced by Byars, 30.

A BILL FOR AN ACT relating to insurance; to amend section 44-3607, Reissue Revised Statutes of Nebraska; to provide disclosure requirements; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 85.** Introduced by Byars, 30.

A BILL FOR AN ACT relating to personal assets; to amend sections 12-1106 and 68-129, Reissue Revised Statutes of Nebraska; to change provisions relating to designation of irrevocable funds; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 86.** Introduced by Byars, 30.

A BILL FOR AN ACT relating to motor vehicle registration; to amend section 60-311.03, Reissue Revised Statutes of Nebraska; to change requirements for Pearl Harbor survivor plates; and to repeal the original section.

**LEGISLATIVE BILL 87.** Introduced by Byars, 30.

A BILL FOR AN ACT relating to deaf and hard of hearing persons; to amend sections 20-158, 71-4728, and 71-4728.05, Reissue Revised Statutes of Nebraska, and sections 20-150, 20-151, and 20-156, Revised Statutes Supplement, 2004; to change provisions relating to interpreters, the Commission for the Deaf and Hard of Hearing, and the Interpreter Review Board; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 88.** Introduced by Byars, 30.

A BILL FOR AN ACT relating to real estate; to amend section 76-2422, Reissue Revised Statutes of Nebraska; to change provisions relating to brokerage agreements; and to repeal the original section.

**LEGISLATIVE BILL 89.** Introduced by Byars, 30; Jensen, 20.

A BILL FOR AN ACT relating to dentists; to amend section 71-183.01, Reissue Revised Statutes of Nebraska; to provide an exemption from licensure requirements; and to repeal the original section.

**LEGISLATIVE BILL 90.** Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to ethanol; to amend section 66-1345.01, Revised Statutes Supplement, 2004; to change the tax rate on corn and grain sorghum; and to repeal the original section.

**LEGISLATIVE BILL 91.** Introduced by Aguilar, 35.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-1801, Reissue Revised Statutes of Nebraska; to change provisions relating to claims, expenses, and attorney's fees; and to repeal the original section.

**LEGISLATIVE BILL 92.** Introduced by Byars, 30; Friend, 10.

A BILL FOR AN ACT relating to cities and villages; to amend sections 16-611 and 17-558, Revised Statutes Supplement, 2004; to change provisions relating to the vacation of streets and alleys; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 93.** Introduced by Byars, 30; Smith, 48.

A BILL FOR AN ACT relating to crime victims and witnesses assistance; to amend sections 81-1844 and 81-1845, Revised Statutes Supplement, 2004; to prescribe a defendant surcharge for funding; to change provisions relating to a fund and to victim and witness assistance centers; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

**LEGISLATIVE BILL 94.** Introduced by Janssen, 15; Aguilar, 35; Schrock, 38.

A BILL FOR AN ACT relating to environmental protection; to amend section 81-1505.04, Revised Statutes Supplement, 2004; to modify provisions regarding the payment of fees for pollutants; to clarify existing provisions; and to repeal the original section.

**LEGISLATIVE BILL 95.** Introduced by Janssen, 15; Raikes, 25.

A BILL FOR AN ACT relating to school reorganization; to amend sections 79-419 and 79-443, Reissue Revised Statutes of Nebraska; to change provisions relating to holding school in existing buildings as prescribed; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

**LEGISLATIVE BILL 96.** Introduced by Janssen, 15; Aguilar, 35; Schimek, 27.

A BILL FOR AN ACT relating to education; to amend section 85-505, Reissue Revised Statutes of Nebraska; to change Nebraska National Guard member tuition credit provisions; and to repeal the original section.

**LEGISLATIVE BILL 97.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to real property; to amend section 76-239, Reissue Revised Statutes of Nebraska; to change provisions relating to mortgages or real estate contracts; and to repeal the original section.

**LEGISLATIVE BILL 98.** Introduced by Schimek, 27; Cudaback, 36.

A BILL FOR AN ACT relating to elections; to amend section 32-952, Reissue Revised Statutes of Nebraska; to change provisions relating to special elections by mail; and to repeal the original section.

**LEGISLATIVE BILL 99.** Introduced by Synowiecki, 7; Connealy, 16.

A BILL FOR AN ACT relating to elevator safety; to amend sections 48-418 to 48-418.03 and 48-418.05 to 48-418.11, Reissue Revised Statutes of Nebraska; to adopt the Conveyance Safety Act; to transfer and eliminate provisions relating to elevators; to create a committee; to rename a fund; to provide penalties; to provide an operative date; to repeal the original sections; and to outright repeal sections 48-418.04, 48-418.12 and 48-418.14, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 100.** Introduced by Stuhr, 24; Cornett, 45; Friend, 10.

A BILL FOR AN ACT relating to police animals; to amend section 28-906, Reissue Revised Statutes of Nebraska, and section 28-1008, Revised Statutes Supplement, 2004; to redefine the term for certain crimes; and to repeal the original sections.

**LEGISLATIVE BILL 101.** Introduced by Byars, 30; Chambers, 11; Jensen, 20.

A BILL FOR AN ACT relating to health and human services; to state intent

relating to a medicaid waiver; to provide for intensive early intervention behavior therapy services for children with autism spectrum disorder; to provide payment rates; to require a report; to provide an operative date; and to declare an emergency.

**LEGISLATIVE BILL 102.** Introduced by Natural Resources Committee: Schrock, 38, Chairperson; Hudkins, 21; Kopplin, 3; Kremer, 34; McDonald, 41; Stuhr, 24; and Beutler, 28; Preister, 5.

A BILL FOR AN ACT relating to storm water drainage; to amend sections 18-501 to 18-505 and 18-507 to 18-510, Reissue Revised Statutes of Nebraska; to change provisions relating to sewer system charges and fees; to authorize storm water management programs for cities, counties, and natural resources districts as prescribed; to provide powers and duties; to harmonize provisions; to provide severability; and to repeal the original sections.

**LEGISLATIVE BILL 103.** Introduced by Synowiecki, 7; Preister, 5.

A BILL FOR AN ACT relating to veterans; to amend sections 80-316 and 80-401.01, Reissue Revised Statutes of Nebraska; to change provisions relating to eligibility for admission to veterans homes and for benefits; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 104.** Introduced by Thompson, 14; Jensen, 20.

A BILL FOR AN ACT relating to civil rights; to allow breast-feeding as prescribed.

**LEGISLATIVE BILL 105.** Introduced by Chambers, 11.

A BILL FOR AN ACT relating to courts; to amend sections 25-1629.01 and 25-1635, Reissue Revised Statutes of Nebraska; to change provisions relating to juror qualification forms; to provide powers and duties; and to repeal the original sections.

**LEGISLATIVE BILL 106.** Introduced by Byars, 30; Aguilar, 35; Baker, 44; Connealy, 16; Jensen, 20; Schimek, 27; Stuhr, 24; Thompson, 14.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend sections 60-4,182, 60-6,267, 60-6,268, 60-6,270, 60-6,271, and 60-6,272, Reissue Revised Statutes of Nebraska; to require all occupants in motor vehicles to wear occupant protection systems; to change points and fines assessed for such violation; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 107.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to alcoholic liquor; to amend sections 53-1,104 and 53-1,106, Reissue Revised Statutes of Nebraska; to change

provisions relating to retail license suspension; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 108.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to alcoholic liquor; to amend section 53-180.02, Reissue Revised Statutes of Nebraska; to change provisions relating to possession by minors; and to repeal the original section.

**LEGISLATIVE BILL 109.** Introduced by Connealy, 16; Cornett, 45; Janssen, 15; Preister, 5.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-3446, Reissue Revised Statutes of Nebraska, and section 77-3442, Revised Statutes Supplement, 2004; to change levy and budget restrictions as prescribed; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 110.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to liability limitations; to amend section 25-21,280, Revised Statutes Supplement, 2004; to change provisions relating to immunity for certain educational employees responding to asthma or allergic reactions as prescribed; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 111.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to the Nebraska State Patrol; to amend sections 29-212 to 29-214, Reissue Revised Statutes of Nebraska; to establish the Missing Persons Information Clearinghouse; to provide powers and duties for the patrol and local law enforcement agencies; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 112.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to criminal procedure; to require electronic recording of custodial interrogations as prescribed.

**LEGISLATIVE BILL 113.** Introduced by Cunningham, 40; Connealy, 16; Engel, 17; Flood, 19.

A BILL FOR AN ACT relating to community colleges; to amend section 85-1517, Reissue Revised Statutes of Nebraska, and sections 13-519 and 77-3442, Revised Statutes Supplement, 2004; to change property tax levy provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 114.** Introduced by Byars, 30; Combs, 32; Cunningham, 40; Erdman, 47; Howard, 9; Jensen, 20; Price, 26; Stuhr, 24.

A BILL FOR AN ACT relating to schools; to amend sections 79-214 and 79-220, Reissue Revised Statutes of Nebraska; to change provisions relating to entrance requirements; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 115.** Introduced by Friend, 10; Cornett, 45.

A BILL FOR AN ACT relating to law enforcement; to amend section 81-1403, Revised Statutes Supplement, 2004; to change revocation and suspension procedures for law enforcement certificates; and to repeal the original section.

**LEGISLATIVE BILL 116.** Introduced by Friend, 10; Cornett, 45.

A BILL FOR AN ACT relating to child support; to amend section 43-1724, Reissue Revised Statutes of Nebraska; to provide a penalty for failure to withhold; and to repeal the original section.

**LEGISLATIVE BILL 117.** Introduced by Bourne, 8; Aguilar, 35; Price, 26; Stuthman, 22; at the request of the Governor.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-401, 28-416, 28-450, and 28-456, Revised Statutes Supplement, 2004; to redefine a term; to change penalties for certain drug offenses; to change provisions and penalties relating to ephedrine, pseudoephedrine, and phenylpropanolamine; and to repeal the original sections.

**LEGISLATIVE BILL 118.** Introduced by Cunningham, 40; Baker, 44; Combs, 32; Connealy, 16; Heidemann, 1; Kremer, 34; Smith, 48.

A BILL FOR AN ACT relating to the Equipment Business Regulation Act; to amend section 87-705, Reissue Revised Statutes of Nebraska; to provide requirements relating to approval of sales and transfers of dealerships; and to repeal the original section.

**LEGISLATIVE BILL 119.** Introduced by Banking, Commerce and Insurance Committee: Mines, 18; Chairperson; Flood, 19; Jensen, 20; Johnson, 37; Langemeier, 23; Loudon, 49; Pahls, 31; Redfield, 12.

A BILL FOR AN ACT relating to insurance; to amend sections 12-1108, 12-1110, 12-1115, 12-1116, 44-401, 44-402.01, 44-409, 44-417, 44-789, 44-797, 44-2131, 44-2132, 44-4814, 44-5103, 44-5109, 44-5143, 44-5144, 44-5149, 44-5153, 44-5154, 44-5418, 44-5505, 44-5508, 44-6122, 44-6125, 44-7506, 44-7508.01, 44-7509, 44-7511, and 48-146.01, Reissue Revised Statutes of Nebraska; to change provisions of the Burial Pre-Need Sale Act; to change provisions relating to insurance reserves and coverage of bone or joint treatment and breast reconstruction; to change a registration date; to change provisions relating to rehabilitation, investments, and utilization review; to change record requirements; to change provisions relating to the

Mutual Insurance Holding Company Act; to change provisions relating to filings of rating systems and prospective loss costs; to adopt the Property and Casualty Actuarial Opinion Act and the Interstate Insurance Product Regulation Compact; to provide requirements relating to insolvency, reinsurance, and qualified United States financial institutions; to provide powers for the Director of Insurance; to provide for rules and regulations; to harmonize provisions; to repeal the original sections; and to outright repeal sections 44-416, 44-416.01, 44-416.03, and 44-416.04, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 120.** Introduced by Loudon, 49; Erdman, 47; Kremer, 34; Smith, 48; Stuhr, 24.

A BILL FOR AN ACT relating to agriculture; to amend section 54-2419, Reissue Revised Statutes of Nebraska; to change provisions of the Livestock Waste Management Act relating to permit conditions; and to repeal the original section.

**LEGISLATIVE BILL 121.** Introduced by Loudon, 49; Kremer, 34; Preister, 5; Smith, 48.

A BILL FOR AN ACT relating to permits and licenses; to amend sections 37-201 and 37-407, Reissue Revised Statutes of Nebraska; to authorize the issuance of discounted hunting and fishing licenses to residents that have been deployed in the military; to set fees; to authorize rules and regulations; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 122.** Introduced by Cunningham, 40; Baker, 44; Janssen, 15; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to the Boiler Inspection Act; to amend section 48-726, Reissue Revised Statutes of Nebraska; to provide an exemption and a registry for certain pressure vessels; and to repeal the original section.

**LEGISLATIVE BILL 123.** Introduced by Friend, 10; Redfield, 12; Schrock, 38.

A BILL FOR AN ACT relating to criminal procedure; to amend sections 29-2264, 29-4003, 29-4004, 29-4009, and 29-4013, Revised Statutes Supplement, 2004; to change provisions relating to convictions set aside and sex offender registration; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 124.** Introduced by Hudkins, 21; Combs, 32; Connealy, 16; Cunningham, 40; Erdman, 47; Heidemann, 1; McDonald, 41; Redfield, 12; Smith, 48; Stuthman, 22.

A BILL FOR AN ACT relating to schools; to amend sections 79-547 and

79-551 to 79-553, Reissue Revised Statutes of Nebraska; to provide for representation of Class I school districts on certain other school boards; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

**LEGISLATIVE BILL 125.** Introduced by Hudkins, 21; Combs, 32; Connealy, 16; Cunningham, 40; Fischer, 43; McDonald, 41; Stuthman, 22.

A BILL FOR AN ACT relating to school boards; to amend section 79-543, Reissue Revised Statutes of Nebraska; to require training and instruction for school board members as prescribed; to provide for approval of such training and instruction; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original section.

**LEGISLATIVE BILL 126.** Introduced by Raikes, 25; Baker, 44; Beutler, 28; Bourne, 8; Byars, 30; Engel, 17; Janssen, 15; Jensen, 20; Mines, 18; Price, 26; Redfield, 12; Stuhr, 24.

A BILL FOR AN ACT relating to schools; to amend sections 32-542, 79-102, 79-401, 79-402, 79-403, 79-405, 79-407, 79-408, 79-409, 79-410, 79-413, 79-415, 76-416, 79-418, 79-419, 79-422, 79-433, 79-434, 79-443, 79-447, 79-449, 79-452, 79-454, 79-455, 79-470, 79-473, 79-479, 79-499, 79-4,101, 79-4,108, 79-4,111, 79-556, 79-611, 79-850, 79-1003, 79-1026, 79-1027, 79-1031.01, 79-1083.02, and 79-1083.03, Reissue Revised Statutes of Nebraska, and sections 79-1016, 79-1022, and 79-1028, Revised Statutes Supplement, 2004; to provide for reorganization of certain school districts as prescribed; to change and eliminate provisions relating to school district reorganization; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 79-404, 79-406, 79-411, 79-417, 79-424 to 79-427, 79-431, 79-472, 79-477, 79-478, 79-492 to 79-495, 79-4,109, and 79-4,110, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 127.** Introduced by Cunningham, 40; Burling, 33; Combs, 32; Kremer, 34; McDonald, 41; Price, 26; Stuthman, 22.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-601, Reissue Revised Statutes of Nebraska; to authorize the reporting of school bus safety violations as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 128.** Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 2004; to create the offense of interference with child visitation; to provide penalties; to harmonize provisions; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 129.** Introduced by Education Committee: Raikes,

25, Chairperson; Bourne, 8; Byars, 30; Stuhr, 24; and Stuthman, 22.

A BILL FOR AN ACT relating to schools; to amend sections 79-1002, 79-1003, 79-1007.01, and 79-1083.03, Reissue Revised Statutes of Nebraska, and sections 77-3442, 79-1001, 79-1007.02, 79-1008.01, 79-1009, 79-1022, and 79-1028, Revised Statutes Supplement, 2004; to provide for adjustments and allowances and change provisions relating to the state aid formula under the Tax Equity and Educational Opportunities Support Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 130.** Introduced by Brown, 6; Chambers, 11.

A BILL FOR AN ACT relating to civil rights; to amend sections 20-326 and 20-330, Revised Statutes Supplement, 2004; to eliminate changes to discriminatory housing practice complaint procedure and information made by Laws 2004, LB 625; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 131.** Introduced by Cunningham, 40; Connealy, 16; Kremer, 34.

A BILL FOR AN ACT relating to the Nebraska Pure Food Act; to amend section 81-2,245.01, Reissue Revised Statutes of Nebraska; to redefine a term; and to repeal the original section.

**LEGISLATIVE BILL 132.** Introduced by Cunningham, 40; Burling, 33; Connealy, 16; Preister, 5.

A BILL FOR AN ACT relating to agriculture; to amend section 2-3903, Reissue Revised Statutes of Nebraska, and section 2-3901, Revised Statutes Supplement, 2004; to change provisions of the Nebraska Pasteurized Milk Law; to provide for a waiver as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 133.** Introduced by Connealy, 16; Preister, 5.

A BILL FOR AN ACT relating to taxation; to amend sections 77-2701 and 77-2701.04, Revised Statutes Supplement, 2004; to provide a renewable energy sales tax credit for certain electricity generators; to repeal the original sections; to provide an operative date; and to declare an emergency.

**LEGISLATIVE BILL 134.** Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-121, Reissue Revised Statutes of Nebraska; to change disability compensation provisions; and to repeal the original section.

**RESOLUTIONS****LEGISLATIVE RESOLUTION 1CA.** Introduced by Schrock, 38.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article VII, sections 7 and 8:

VII-7 The following are hereby declared to be perpetual funds for common school purposes of which the annual interest or income only can be appropriated except as otherwise provided in this section, to wit:

First. Such ~~per-cent-percent~~ as has been, or may hereafter be, granted by Congress on the sale of lands in this state.

Second. All money arising from the sale or leasing of sections number sixteen and thirty-six in each township in this state, and the lands selected, or that may be selected, in lieu thereof.

Third. The proceeds of all lands that have been, or may hereafter be, granted to this state, where by the terms and conditions of such grant the same are not to be otherwise appropriated.

Fourth. The net proceeds of lands and other property and effects that may come to this state, by escheat or forfeiture, or from unclaimed dividends, or distributive shares of the estates of deceased persons.

Fifth. All other property of any kind now belonging to the perpetual fund.

The Legislature may, by a three-fifths majority vote, annually appropriate not more than twenty percent of the principal of the perpetual fund described in this section for the purpose of benefitting the common schools as the Legislature determines.

VII-8 All funds belonging to the state for educational purposes, the interest and income whereof only are to be used except as provided in Article VII, section 7, of this Constitution, shall be deemed trust funds. Such funds with the interest and income thereof are hereby solemnly pledged to the purposes for which they are granted and set apart and shall not be transferred to any other fund for other uses except as provided in such section. The state shall supply any net aggregate losses thereof realized at the close of each calendar year that may in any manner accrue. Notwithstanding any other provisions in the Constitution, such funds shall be invested as the Legislature may by statute provide.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to permit the Legislature to annually appropriate not more than twenty percent of the principal of the perpetual school funds to benefit the common schools.

For

Against.

Referred to the Reference Committee.

**LEGISLATIVE RESOLUTION 2CA.** Introduced by Landis, 46.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article XIII, section 2:

XIII-2 (1) Notwithstanding any other provision in the Constitution, the Legislature may authorize any county or incorporated city or village, including cities operating under home rule charters, to acquire, own, develop, and lease real and personal property suitable for use by manufacturing or industrial enterprises and to issue revenue bonds for the purpose of defraying the cost of acquiring and developing such property by construction, purchase, or otherwise. The Legislature may also authorize such county, city, or village to acquire, own, develop, and lease real and personal property suitable for use by enterprises as determined by law if such property is located in blighted areas as determined by law and to issue revenue bonds for the purpose of defraying the cost of acquiring and developing or financing such property by construction, purchase, or otherwise. Such bonds shall not become general obligation bonds of the governmental subdivision by which such bonds are issued. Any real or personal property acquired, owned, developed, or used by any such county, city, or village pursuant to this section shall be subject to taxation to the same extent as private property during the time it is leased to or held by private interests, notwithstanding the provisions of Article VIII, section 2, of the Constitution. The acquiring, owning, developing, and leasing of such property shall be deemed for a public purpose, but the governmental subdivision shall not have the right to acquire such property by condemnation. The principal of and interest on any bonds issued may be secured by a pledge of the lease and the revenue therefrom and by mortgage upon such property. No such governmental subdivision shall have the power to operate any such property as a business or in any manner except as the lessor thereof.

(2) Notwithstanding any other provision in this Constitution, the Legislature may also authorize any county, city, or village to acquire, own, develop, and lease or finance real and personal property, other than property used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship, to be used, during the term of any revenue bonds issued, only by nonprofit enterprises as determined by law and to issue revenue bonds for the purpose of defraying the cost of acquiring and developing or financing such property by construction, purchase, or otherwise. Such bonds shall not become general obligation bonds of the governmental subdivision by which such bonds are issued. Notwithstanding the provisions of Article VIII, section 2, of this Constitution, the acquisition, ownership, development, use, or financing of any real or personal property pursuant to the provisions of this section shall not affect the imposition of any taxes or the exemption therefrom by the

Legislature pursuant to this Constitution. The acquiring, owning, developing, and leasing or financing of such property shall be deemed for a public purpose, but the governmental subdivision shall not have the right to acquire such property by condemnation. The principal of and interest on any bonds issued may be secured by a pledge of the lease and the revenue therefrom and by mortgage upon such property. No such governmental subdivision shall have the power to operate any such property as a business or in any manner except as the lessor thereof.

(3) Notwithstanding any other provision in the Constitution, the Legislature may also authorize any incorporated city or village, including cities operating under home rule charters, to appropriate from local sources of revenue such funds as may be deemed necessary for an economic or industrial development project or program subject to approval by a vote of a majority of the registered voters of such city or village voting upon the question. For purposes of this provision, funds from local sources of revenue shall mean funds raised from general taxes levied by the city or village and shall not include any funds received by the city or village which are derived from state or federal sources.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to authorize the use of revenue bonds to develop and lease property for use by nonprofit enterprises as determined by law.

For

Against.

Referred to the Reference Committee.

### **LEGISLATIVE RESOLUTION 3CA.** Introduced by Beutler, 28.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 12:

III-12 (1) No person shall be eligible to serve as a member of the Legislature for four years next after the expiration of two consecutive terms regardless of the district represented.

(2) Service prior to January 1, 2001, as a member of the Legislature shall not be counted for the purpose of calculating consecutive terms in subsection (1) of this section.

(3) For the purpose of this section, service in office for more than one-half of a term shall be deemed service for a term.

(4) This section terminates January 1, 2010.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to provide a termination date for term limit provisions for members of the Legislature.

For

Against.

Referred to the Reference Committee.

**LEGISLATIVE RESOLUTION 4CA.** Introduced by Beutler, 28.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, sections 7 and 19, and add a new section 31 to Article III:

III-7 At the general election to be held in November 1964, one-half the members of the Legislature, or as nearly thereto as may be practicable, shall be elected for a term of four years and the remainder for a term of two years, and thereafter all members shall be elected for a term of four years, with the manner of such election to be determined by the Legislature. When the Legislature is redistricted, the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term. Each member shall be nominated and elected in a nonpartisan manner and without any indication on the ballot that he or she is affiliated with or endorsed by any political party or organization. Each member of the Legislature shall receive a salary of ~~not to exceed~~ one thousand dollars per month during the term of his or her office until his or her compensation is changed in the manner provided by Article III, section 31, of this Constitution. In addition to his or her ~~salary~~ compensation, each member shall receive an amount equal to his or her actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay nor perquisites other than ~~his or her salary~~ the compensation provided by this section and Article III, section 31, of this Constitution and expenses; ~~and employees of the Legislature shall receive no compensation other than their salary or per diem.~~

III-19 (1) The Legislature shall never grant any extra compensation to any public officer, agent, or servant after the services have been rendered nor to any contractor after the contract has been entered into, except that retirement benefits of retired public officers and employees may be adjusted to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement.

(2) Except as otherwise provided by Article III, section 31, of this Constitution, the The compensation of any public officer, including any officer whose compensation is fixed by the Legislature, shall not be increased or diminished during his or her term of office, except that when there are members elected or appointed to ~~the Legislature or the judiciary; or~~

officers elected or appointed to a board or commission having more than one member; and the terms of such members commence and end at different times, the compensation of all members ~~of the Legislature~~, of the judiciary, or of such board or commission may be increased or diminished at the beginning of the full term of any member thereof.

(3) Nothing in this section shall prevent local governing bodies from reviewing and adjusting vested pension benefits periodically as prescribed by ordinance.

(4) The surviving spouse of any retired public officer, agent, or servant, who has retired under a pension plan or system, shall be considered as having pensionable status and shall be entitled to the same benefits which may, at any time, be provided for or available to spouses of other public officers, agents, or servants who have retired under such pension plan or system at a later date, and such benefits shall not be prohibited by the restrictions of this section or of Article XIII, section 3, ~~of the Constitution of Nebraska~~ this Constitution.

III-31 (1) There is hereby created the Ethics and Compensation Review Commission. The members of the commission shall be appointed by the Governor. There shall be two members appointed from each congressional district and three members from the state at large. Members of the commission shall serve for terms of six years, except that of the members initially appointed, one from each of the congressional districts and one of the at-large members shall be appointed for terms of two years. No more than five members of the commission may belong to the same political party at any one time, and no elected official or employee of the state or any political subdivision or registered lobbyist may serve as a member. The term of an existing member shall terminate on the date a new member is appointed. A member may serve no more than two terms on the commission and shall receive no compensation for the performance of his or her duties but may be reimbursed for actual and necessary expenses.

(2) The Ethics and Compensation Review Commission shall prepare and present to the Legislature prior to November 1, 2007, a recommended legislative code of ethics which may be adopted by the Legislature. The code of ethics shall include procedures for implementing such code. Beginning three years after the initial adoption of the recommended code of ethics, the Legislature may modify the code of ethics as it deems necessary or advisable to effectuate Article III, sections 10 and 16, of this Constitution. The Legislature shall maintain a code of ethics in its permanent rules.

(3) After the Ethics and Compensation Review Commission has presented a code of ethics to the Legislature and a code of ethics has been adopted as recommended as part of the Legislature's permanent rules, the commission shall review compensation for members of the Legislature and submit a report to the Governor and the Legislature recommending any adjustment to such compensation the commission deems appropriate. The Legislature may by legislative bill approve, disapprove, or reduce the recommended adjustment but may not increase the recommended adjustment. Adjustments shall not become effective until so approved by the Legislature, and when so approved shall become effective three calendar months following the end of the legislative session in which the adjustments were approved. The

commission shall review and submit a report recommending any adjustment to compensation every fourth year and shall review and submit a recommendation with respect to changes in the legislative code of ethics every fourth year after the submission of the original recommendation.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to create the Ethics and Compensation Review Commission, to change and eliminate provisions relating to compensation of members and employees of the Legislature, and to provide for the adoption of a legislative code of ethics.

For

Against.

Referred to the Reference Committee.

### **LEGISLATIVE RESOLUTION 5CA.** Introduced by Beutler, 28.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To add a new section 31 to Article III and repeal Article III, section 12:

III-31 (1) Members of the Legislature may be removed from office by recall pursuant to this section.

(2) A petition demanding that the question of removing a member of the Legislature be submitted to the registered voters of that legislative district shall be signed by registered voters equal in number to at least twenty-five percent of the total vote cast for that office in the last general election at which that office was filled. Only registered voters of such member's legislative district as it exists when the petitions are circulated may sign a recall petition. The Secretary of State shall notify the principal circulator that the necessary signatures must be gathered within ninety days after the date of issuing the petition papers.

(3) A recall petition may be filed against a member of the Legislature who has served more than two consecutive terms of office but not within one hundred twenty days after the beginning of any third or subsequent consecutive term of office or within two hundred days prior to the end of any third or subsequent consecutive term of office. No recall petition shall be filed against a member of the Legislature during the same term of office in which a recall election has failed to remove him or her from office.

(4) If the recall petition is found to be sufficient, the Secretary of State shall notify the member and the Clerk of the Legislature that sufficient signatures have been gathered. If the member does not resign within five days after receiving the notice, the Secretary of State shall order an election to be held not less than thirty nor more than forty-five days after the expiration of the five-day period, except that if any other election is to be held in that district within ninety days after the expiration of the five-day

period, the Secretary of State may provide for the holding of the removal election on the same day. After the Secretary of State sets the date for the recall election, the recall election shall be held regardless of whether the official whose removal is sought resigns before the recall election is held.

(5) If a majority of the votes cast at a recall election are against the removal of the member or the election results in a tie, the member shall continue in office for the remainder of his or her term and shall not be subject to further recall attempts during such term. If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the vacancy shall be filled as provided by law.

(6) No member who is removed from office as a result of a recall election or who resigns after the initiation of the recall process shall be appointed to fill a vacancy resulting from his or her resignation or the resignation or removal of any other member of the Legislature or be eligible for election to the Legislature during the remainder of the term of the office from which the member was removed.

Article III, section 12, of the Constitution of Nebraska is repealed.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to provide for recall of state legislators and to repeal term limits for state legislators.

For

Against.

Referred to the Reference Committee.

## **LEGISLATIVE RESOLUTION 6.** Introduced by D. Pederson, 42.

WHEREAS, the global conflict of 1939-1945, known as World War II, was the greatest and most destructive war in history. More than seventeen million members of the armed forces of various belligerents perished during the conflict. World War II strained the economic capabilities of major nations and left countries on the verge of collapse; and

WHEREAS, the City of North Platte, Nebraska, is planning a gala celebration to honor Nebraska's World War II veterans for their tremendous heroism and bravery on the many fronts and battlefields that enabled the United States and its allies to be victorious; and

WHEREAS, a Twentieth Century Veterans' Memorial will also be dedicated and includes stepping through a bronze eagle crested entryway and standing before a larger than life bronze group statue entitled "Defenders of Liberty". Six bronze statues on either side of the walkway depict the honorable military men and women who served during the Twentieth Century; and

WHEREAS, continuing down a "Walk of Honor" reminds visitors of the thousands of veterans whose names are inscribed in the bricks that make up the walls. There is space for eight thousand eight bricks, with bricks donated

to honor veterans from forty-two states and one hundred fifty-seven towns in Nebraska; and

WHEREAS, the back wall of the memorial is a stunning fifteen feet by forty feet brick bas-relief mural reflecting the struggle to preserve peace and freedom; and

WHEREAS, a special area on the east side of the Twentieth Century Veterans' Memorial is dedicated to those great people from the greater mid-Nebraska area who developed and served the Canteen at the North Platte depot and encouraged more than six million military men and women as they passed through North Platte on troop trains during World War II.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature designates and commemorates the City of North Platte as Nebraska's official celebration site of the Sixtieth Anniversary of the end of World War II on September 2 and 3, 2005.

Laid over.

**LEGISLATIVE RESOLUTION 7.** Introduced by Schrock, 38.

WHEREAS, Andrew Kenneth Roberts, of Orleans, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Andrew Kenneth Roberts has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Andrew Kenneth Roberts will join other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Andrew Kenneth Roberts on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Andrew Kenneth Roberts.

Laid over.

**LEGISLATIVE RESOLUTION 8CA.** Introduced by Schrock, 38;

Aguilar, 35; Baker, 44; Burling, 33; Byars, 30; Combs, 32; Connealy, 16; Cornett, 45; Cudaback, 36; Cunningham, 40; Engel, 17; Erdman, 47; Fischer, 43; Flood, 19; Foley, 29; Friend, 10; Heidemann, 1; Hudkins, 21; Janssen, 15; Johnson, 37; Kopplin, 3; Kremer, 34; Kruse, 13; Langemeier, 23; Loudon, 49; McDonald, 41; Mines, 18; Pahls, 31; Dw. Pedersen, 39; Price, 26; Smith, 48; Stuhr, 24; Stuthman, 22; Synowiecki, 7.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To add a new section 28 to Article I:

I-28 Fishing, trapping, and hunting are a valued part of the heritage of the people and will be a right forever preserved for the people subject to reasonable restrictions as prescribed by law.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to preserve the right to fish, trap, and hunt subject to reasonable restrictions as prescribed by law.

For

Against.

Referred to the Reference Committee.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senators Cornett, Foley, Kruse, Dw. Pedersen, Price, Synowiecki, and Wehrbein asked unanimous consent to have they names added as cointroducers to LB 28. No objections. So ordered.

### **ANNOUNCEMENT**

The Banking, Commerce and Insurance Committee elected Senator Redfield as Vice Chairperson.

### **MOTION - Escort Committees**

Senator Stuhr moved that a series of committees be appointed to escort the various state officers for the purpose of administering their oaths of office.

The motion prevailed.

**RECESS**

At 12:08 p.m., on a motion by Senator Landis, the Legislature recessed until 1:45 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:45 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Beutler, Bourne, Brown, Chambers, Foley, Landis, Dw. Pedersen, Preister, and Wehrbein who were excused.

**SPEAKER BRASHEAR PRESIDING**

**PRESENTATION OF COLORS**

Presentation of Colors by the Nebraska Army National Guard and the Nebraska Air National Guard.

**INAUGURAL CEREMONIES**

Chief Justice John Hendry administered the Oath of Office to the newly elected State officials.

The Chief Justice and the newly elected State officials were escorted from the Chamber.

**VISITOR**

The Doctor of the Day was Dr. Dale Michels from Lincoln.

**ADJOURNMENT**

At 2:16 p.m., on a motion by Senator Byars, the Legislature adjourned until 11:00 a.m., Friday, January 7, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



# **THIRD DAY - JANUARY 7, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, January 7, 2005

#### **PRAAYER**

The prayer was offered by Senator Price.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 11:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Burling who was excused; and Senators Brashear and Dw. Pedersen who were excused until they arrive.

#### **CORRECTIONS FOR THE JOURNAL**

The Journal for the second day was approved.

#### **MOTION - Adopt Temporary Rules**

Senator Hudkins moved that the rules, as now in our possession, be adopted for today only, Friday, January 7, 2005.

The motion prevailed.

#### **COMMITTEE ON COMMITTEES FINAL REPORT**

Senator Dw. Pedersen offered the following final Committee on Committees report:

##### **Agriculture - Kremer (C)**

Burling  
Chambers

Cunningham  
Erdman

Fischer  
Preister

Wehrbein

##### **Appropriations - Pederson, D. (C)**

Beutler  
Cudaback

Engel  
Heidemann

Kruse  
Price

Synowiecki  
Thompson

## Banking, Commerce and Insurance - Mines (C)

Flood Jensen	Johnson Langemeier	Louden Pahls	Redfield
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## Business and Labor - Cunningham (C)

Burling Chambers	Combs Kremer	Preister Schimek
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## Education - Raikes (C)

Bourne Byars	Howard Kopplin	McDonald Schrock	Stuhr
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## General Affairs - Janssen (C)

Connealy Cornett	Erdman Fischer	Friend Landis	Wehrbein
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## Government, Military and Veterans Affairs - Schimek (C)

Brown Burling	Fischer Langemeier	Mines Pahls	Wehrbein
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## Health and Human Services - Jensen (C)

Byars Cunningham	Erdman Howard	Johnson Stuthman
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## Judiciary - Bourne (C)

Aguilar Chambers	Combs Flood	Foley Friend	Pedersen, Dw.
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## Natural Resources - Schrock (C)

Hudkins Kopplin	Kremer Louden	McDonald Smith	Stuhr
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## Nebraska Retirement Systems - Stuhr (C)

Bourne Erdman	Pederson, D. Price	Synowiecki
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## Revenue - Landis (C)

Baker	Cornett	Preister	Redfield
Connealy	Janssen	Raikes	

## Transportation and Telecommunications - Baker (C)

Aguilar	Foley	Pedersen, Dw.	Stuthman
Brown	Hudkins	Smith	

## Urban Affairs - Friend (C)

Combs	Cornett	Landis
Connealy	Janssen	Schimek

## Committee on Committees - Pedersen, Dw. (C)

Bourne	Engel	Landis	Price
Brashear	Jensen	Pederson, D.	Schimek
Cudaback	Kremer	Preister	Schrock

## Enrollment and Review - Flood (C)

## Reference - Engel (C)

Beutler	Cudaback	Pederson, D.
Brashear	Erdman	Stuthman
Chambers	McDonald	Thompson

## Rules - Hudkins (C)

Baker	Cornett	Thompson
Brashear	Stuhr	

## Executive Board - Engel (C)

Beutler	Cudaback	Pederson, D.
Brashear	Erdman	Stuthman
Chambers	McDonald	Thompson

## Intergovernmental Cooperation - Aguilar (C)

Brashear	Combs	McDonald
Brown	Langemeier	Lt. Gov. Heineman

**REPORTS**

The following reports were received by the Legislature:

**Blind and Visually Impaired, Commission for the**

Annual Report

**Economic Development, Department of**

2004 Annual Report

**Fiscal Office, Legislative**

Legislator's Guide to State Agencies, 2005-2006

**Investment Finance Authority**

Single Family Housing Revenue Bonds Series 2004 CDE and General

Obligation Bonds Series 2004 G.O.-17

Single Family Housing Revenue Bonds Series 2004 FG and General

Obligation Bonds Series 2004 G.O.-18

**Property Assessment and Taxation, Department of**

2004 Certificates of Taxes Levied from Assessors Throughout the State

**Secretary of State**

Initiative 300 Reports Summary of Activity 2004, (LB 1193, 1998)

**Southeast Community College**

Financial Condition

**BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 135.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to municipalities; to amend sections 14-2103, 14-2112, 14-2119, 14-2120, 14-2122, 14-2134, 15-311, 16-903, and 17-1003, Reissue Revised Statutes of Nebraska, and sections 14-2114, 15-901, 16-901, and 17-1001, Revised Statutes Supplement, 2004; to limit the jurisdiction of certain utilities districts; to authorize natural gas franchises; to authorize fees; to provide and change powers and duties of cities and villages; to state intent; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 136.** Introduced by Natural Resources Committee: Schrock, 38, Chairperson; Hudkins, 21; Kopplin, 3; Kremer, 34; Loudon, 49; McDonald, 41; Smith, 48; Stuhr, 24; and Friend, 10.

A BILL FOR AN ACT relating to electricity; to adopt the Public Power Infrastructure Protection Act; to provide a duty for the Revisor of Statutes; and to provide severability.

**LEGISLATIVE BILL 137.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to water wells; to amend sections 46-1404 and 46-1405, Reissue Revised Statutes of Nebraska; to change provisions relating to costs of decommissioning illegal water wells; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 138.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to the educational savings plan; to amend sections 85-1803 and 85-1806, Revised Statutes Supplement, 2004; to increase benefits payable for attendance at a Nebraska institution of higher education; and to repeal the original sections.

**LEGISLATIVE BILL 139.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to public power districts; to amend sections 70-301, 70-601.01, 70-604, 70-604.02, 70-626, 70-628.01, 70-628.02, 70-628.03, 70-628.04, 70-631, 70-632, 70-636, 70-637, 70-646.01, 70-655, 70-667, 70-802, 70-1402, 70-1403, 70-1404, 70-1409, 70-1413, 70-1416, and 70-1417, Reissue Revised Statutes of Nebraska, and section 70-601, Revised Statutes Supplement, 2004; to authorize hydrogen production for use in fuel processes as prescribed; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 140.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to the Water Well Standards and Contractors' Licensing Board; to amend section 46-1217, Reissue Revised Statutes of Nebraska; to change provisions relating to membership; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 141.** Introduced by Price, 26.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to eliminate certain budget restrictions; and to outright repeal section 79-1027, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 142.** Introduced by Price, 26.

A BILL FOR AN ACT relating to schools; to amend section 79-10,110, Reissue Revised Statutes of Nebraska; to provide for funding for measures relating to safety and security of students, staff, and visitors; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 143.** Introduced by Price, 26; Aguilar, 35; Beutler, 28; Combs, 32; Foley, 29.

A BILL FOR AN ACT relating to criminal procedure; to amend sections 29-4101 to 29-4109, 29-4112, 29-4114, and 29-4115, Revised Statutes Supplement, 2004; to rename the DNA Detection of Sexual and Violent Offenders Act; to require all felons released from confinement to provide personal identifiers; to harmonize provisions; to repeal the original sections; and to outright repeal section 29-4113, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 144.** Introduced by Price, 26.

A BILL FOR AN ACT relating to the School Employees Retirement Act; to

amend section 79-907, Revised Statutes Supplement, 2004; to change provisions relating to statements of information; and to repeal the original section.

**LEGISLATIVE BILL 145.** Introduced by Price, 26.

A BILL FOR AN ACT relating to schools; to provide for school bond state aid; to state intent; to define terms; and to provide duties for the State Department of Education.

**LEGISLATIVE BILL 146.** Introduced by Price, 26.

A BILL FOR AN ACT relating to nursing; to adopt the Nursing Faculty Student Loan Act.

**LEGISLATIVE BILL 147.** Introduced by Schrock, 38; Combs, 32; Cudaback, 36; Erdman, 47; Heidemann, 1; Hudkins, 21.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-202, Reissue Revised Statutes of Nebraska; to exempt agricultural personal property from property taxation; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 148.** Introduced by Aguilar, 35; Bourne, 8; Howard, 9; McDonald, 41; Preister, 5; Price, 26; Schimek, 27; Stuthman, 22.

A BILL FOR AN ACT relating to child abuse; to amend section 28-707, Revised Statutes Supplement, 2004; to proscribe children near methamphetamine production; to provide a penalty; and to repeal the original section.

**LEGISLATIVE BILL 149.** Introduced by Aguilar, 35; Byars, 30; Cornett, 45; Kruse, 13; McDonald, 41; Price, 26; Schimek, 27; Stuhr, 24; Stuthman, 22.

A BILL FOR AN ACT relating to methamphetamine production; to amend sections 76-2,120, 76-1417, and 76-1479, Reissue Revised Statutes of Nebraska; to require disclosure of prior methamphetamine production to buyers and renters as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 150.** Introduced by Kremer, 34; Baker, 44; Burling, 33; Combs, 32; Cudaback, 36; Cunningham, 40; Erdman, 47; Fischer, 43; Heidemann, 1; Hudkins, 21; Loudon, 49; Raikes, 25; Schrock, 38; Smith, 48; Stuhr, 24; Stuthman, 22; Wehrbein, 2.

A BILL FOR AN ACT relating to agriculture; to adopt the Nebraska Beef Industry Development Act; to provide a penalty; to create a fund; and to provide operative dates.

**LEGISLATIVE BILL 151.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to medical savings accounts; to amend sections 8-1,131 and 21-1799, Revised Statutes Supplement, 2004; to provide exemption from execution as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 152.** Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to vehicular pursuit; to amend sections 13-911 and 81-8,215.01, Reissue Revised Statutes of Nebraska; to change provisions relating to innocent third parties; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 153.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to oil and gas; to amend section 57-909, Reissue Revised Statutes of Nebraska; to change provisions relating to recovery of expenses relating to wells as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 154.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Water Well Standards and Contractors' Licensing Act; to amend sections 46-1207.01, 46-1209, 46-1210, 46-1213, 46-1214, 46-1233, and 46-1241, Reissue Revised Statutes of Nebraska; to redefine terms; to limit performance of certain actions relating to water wells to licensed or certified personnel as prescribed; to harmonize provisions; to repeal the original sections; and to outright repeal section 46-1233.01, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 155.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-27,132, Reissue Revised Statutes of Nebraska; to change distribution of certain sales and use tax proceeds; and to repeal the original section.

**LEGISLATIVE BILL 156.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-4,118.05, 60-4,182, and 60-682.01, Reissue Revised Statutes of Nebraska; to increase points assessed for speeding violations; to increase fines; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 157.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to telecommunications; to amend sections 86-128 and 86-575, Revised Statutes Supplement, 2004; to reenact provisions relating to issuance of certificates and permits to agencies and

political subdivisions of the state and the provision of telecommunications services by such agencies and political subdivisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 158.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to public health and welfare; to amend section 71-3305, Reissue Revised Statutes of Nebraska; to change provisions relating to fluoridation of drinking water; and to repeal the original section.

**LEGISLATIVE BILL 159.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2715.07 and 77-2716, Reissue Revised Statutes of Nebraska; to provide income tax credits and deductions for long-term care insurance premiums as prescribed; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 160.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to the Legislature; to create a task force to examine county government.

**LEGISLATIVE BILL 161.** Introduced by Aguilar, 35; Burling, 33; Johnson, 37; Schrock, 38; Stuhr, 24.

A BILL FOR AN ACT relating to municipalities; to amend sections 16-669, 16-670, 19-2404, and 19-2405, Reissue Revised Statutes of Nebraska; to change provisions relating to assessments and bonds; and to repeal the original sections.

**LEGISLATIVE BILL 162.** Introduced by Stuhr, 24; Schrock, 38.

A BILL FOR AN ACT relating to the Game Law; to amend sections 37-201, 37-405, 37-407, 37-411, 37-415, 37-416, 37-420, 37-421, 37-426, 37-427, 37-428, 37-429, 37-431, 37-432, 37-438, 37-447, 37-450, 37-452, 37-457, and 37-538, Reissue Revised Statutes of Nebraska; to change provisions relating to hunting and fishing permits, fees, habitat stamps, and temporary park entry permits; to provide for Nebraska migratory waterfowl stamps, lifetime aquatic habitat stamps, and auction or lottery permits as prescribed; to change a penalty; to harmonize provisions; to provide operative dates; and to repeal the original sections.

**LEGISLATIVE BILL 163.** Introduced by Bourne, 8; Thompson, 14.

A BILL FOR AN ACT relating to the Mutual Finance Assistance Act; to amend section 35-1205, Reissue Revised Statutes of Nebraska; to change provisions relating to the Mutual Finance Assistance Fund; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 164.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to health care facilities; to amend section 71-433, Reissue Revised Statutes of Nebraska; to provide notification requirements relating to health care facility license applications; and to repeal the original section.

**LEGISLATIVE BILL 165.** Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to retirement; to amend section 84-1501, Revised Statutes Supplement, 2004; to add a member to the Public Employees Retirement Board; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 166.** Introduced by Synowiecki, 7; Combs, 32; Connealy, 16.

A BILL FOR AN ACT relating to labor; to amend sections 48-2102, 48-2104, 48-2107, 48-2114, and 48-2115, Reissue Revised Statutes of Nebraska; to change provisions relating to the Contractor Registration Act; and to repeal the original sections.

**LEGISLATIVE BILL 167.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to archaeological resources preservation; to adopt the Nebraska Archaeological Resources Preservation Act; and to provide penalties.

**LEGISLATIVE BILL 168.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to witness fees; to amend section 33-139.01, Reissue Revised Statutes of Nebraska; to change provisions relating to employees of the state or a political subdivision; and to repeal the original section.

**LEGISLATIVE BILL 169.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to cities and villages; to amend section 18-1803, Reissue Revised Statutes of Nebraska; to change provisions relating to revenue bonds; and to repeal the original section.

**LEGISLATIVE BILL 170.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to decedents' estates; to amend sections 30-3803, 30-3805, 30-3810, 30-3822, 30-3836, 30-3837, 30-3849, 30-3855, 30-3867, 30-3878, and 30-3879, Revised Statutes Supplement, 2004; to change provisions relating to the Nebraska Uniform Trust Code; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 171.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to commercial transactions; to amend section 86-643, Revised Statutes Supplement, 2004, and sections 1-101, 1-201, 2-103, 2-104, 2-310, 2-323, 2-401, 2-503, 2-505, 2-506, 2-509, 2-605, 2-705, 2A-103, 2A-514, 2A-526, 4-104, 4-210, 8-103, 9-102, 9-203, 9-207, 9-208, 9-301, 9-310, 9-312, 9-313, 9-314, 9-317, 9-338, and 9-601, Uniform Commercial Code; to adopt uniform provisions relating to documents of title; to eliminate provisions governing documents of title; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide an operative date; to repeal the original sections; and to outright repeal sections 7-101 to 7-105, 7-201 to 7-210, 7-301 to 7-309, 7-401 to 7-404, 7-501 to 7-509, 7-601 to 7-603, and 10-104, Uniform Commercial Code.

**LEGISLATIVE BILL 172.** Introduced by Cunningham, 40; Bourne, 8; Combs, 32; Erdman, 47; Flood, 19; Stuthman, 22.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701 and 77-2701.04, Revised Statutes Supplement, 2004; to exempt certain clothing and footwear from sales and use taxation; to provide for a review of the exemption; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 173.** Introduced by Hudkins, 21; Bourne, 8; Engel, 17; Jensen, 20; McDonald, 41; Stuthman, 22.

A BILL FOR AN ACT relating to the Uniform Disposition of Unclaimed Property Act; to amend section 69-1305.02, Reissue Revised Statutes of Nebraska; to change provisions relating to gift certificates; and to repeal the original section.

**LEGISLATIVE BILL 174.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to health care facilities; to amend section 71-434, Reissue Revised Statutes of Nebraska; to change license fee provisions; and to repeal the original section.

**LEGISLATIVE BILL 175.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to physician assistants; to amend sections 71-1,107.30 and 71-2418 to 71-2420, Reissue Revised Statutes of Nebraska; to change provisions relating to prescribing authority and disciplinary actions; and to repeal the original sections.

**LEGISLATIVE BILL 176.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to emergency medical services; to amend

section 71-51,102, Reissue Revised Statutes of Nebraska; to change provisions relating to automated external defibrillator use; and to repeal the original section.

**LEGISLATIVE BILL 177.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to professional licensing; to amend sections 71-1,356 and 71-1,358, Revised Statutes Supplement, 2004; to change provisions relating to alcohol and drug counselors; and to repeal the original sections.

**LEGISLATIVE BILL 178.** Introduced by Kruse, 13; Aguilar, 35; Burling, 33; Cornett, 45; Howard, 9; Kremer, 34; McDonald, 41; Price, 26; Redfield, 12; Schrock, 38; Synowiecki, 7; Wehrbein, 2.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-180.04 and 53-180.05, Reissue Revised Statutes of Nebraska; to provide and change penalties; to provide for license suspension for minors' violations; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 179.** Introduced by Kruse, 13; Aguilar, 35; Burling, 33; Cornett, 45; Erdman, 47; Flood, 19; Heidemann, 1; Howard, 9; Kremer, 34; McDonald, 41; Pahls, 31; Price, 26; Redfield, 12; Schrock, 38; Smith, 48; Synowiecki, 7; Wehrbein, 2.

A BILL FOR AN ACT relating to child abuse; to amend sections 28-201 and 28-707, Revised Statutes Supplement, 2004; to provide a penalty for driving under the influence with a minor child passenger; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 180.** Introduced by Schimek, 27; Connealy, 16; Cunningham, 40; Janssen, 15; Preister, 5.

A BILL FOR AN ACT relating to the Legislature; to create the State-Tribal Relations Committee.

**LEGISLATIVE BILL 181.** Introduced by Schimek, 27; Aguilar, 35; Byars, 30; Connealy, 16; Preister, 5; Price, 26.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-101 and 28-710, Revised Statutes Supplement, 2004; to provide a penalty for leaving a child unattended in a motor vehicle as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 182.** Introduced by Schimek, 27; Combs, 32; Erdman, 47; Stuthman, 22.

A BILL FOR AN ACT relating to dental hygienists; to amend sections

71-193.15 to 71-193.17, Reissue Revised Statutes of Nebraska; to change provisions relating to authorized functions; to define terms; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 183.** Introduced by D. Pederson, 42.

A BILL FOR AN ACT relating to the Cash Reserve Fund; to amend section 84-612, Revised Statutes Supplement, 2004; to delete obsolete transfer provisions; and to repeal the original section.

**LEGISLATIVE BILL 184.** Introduced by D. Pederson, 42.

A BILL FOR AN ACT relating to state funds; to create the Low-Level Radioactive Waste Settlement Fund.

**LEGISLATIVE BILL 185.** Introduced by Brown, 6; Aguilar, 35; Baker, 44; Connealy, 16; Foley, 29; Hudkins, 21; Dw. Pedersen, 39; Smith, 48; Stuthman, 22.

A BILL FOR AN ACT relating to motor vehicles; to require dealerships to be closed one day in every calendar week; and to provide a duty for the Revisor of Statutes.

**LEGISLATIVE BILL 186.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to city planning; to amend section 15-849, Revised Statutes Supplement, 2004; to change provisions relating to investment of city funds; and to repeal the original section.

**LEGISLATIVE BILL 187.** Introduced by Beutler, 28; Schimek, 27.

A BILL FOR AN ACT relating to political accountability and disclosure; to amend section 49-14,101.02, Reissue Revised Statutes of Nebraska; to define a term; to clarify a prohibition on the use of mass mailings involving ballot questions; to permit a member of the Legislature to communicate to nonconstituents; to permit Legislative employees to use public resources for ballot questions in certain circumstances; and to repeal the original section.

**LEGISLATIVE BILL 188.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to political accountability and disclosure; to amend sections 32-1601, 32-1603, 32-1604, 32-1604.01, 32-1606, 32-1608, 32-1608.01, 32-1608.03, 32-1612, 49-1446.04, 49-1463.01, 49-14,124, and 49-14,125, Reissue Revised Statutes of Nebraska; to redefine a term; to change provisions regarding campaign expenditures and public funds; to provide for loans and late fees; to change penalty provisions; to change powers and duties of the Nebraska Accountability and Disclosure Commission; to eliminate unconstitutional provisions; to harmonize provisions; to provide an operative date; to repeal the original sections; and

to outright repeal section 32-1614, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 189.** Introduced by Preister, 5.

A BILL FOR AN ACT relating to electricity; to amend section 79-1035.01, Reissue Revised Statutes of Nebraska; to provide for a renewable portfolio standard; to provide for renewable energy credits; to provide duties for the Nebraska Power Review Board; to provide for penalties and civil actions; to change provisions relating to the permanent school fund; to provide severability; and to repeal the original section.

**LEGISLATIVE BILL 190.** Introduced by Preister, 5.

A BILL FOR AN ACT relating to recycling; to amend sections 81-15,167 and 81-15,173, Revised Statutes Supplement, 2004; to adopt the Electronic Equipment Recycling Act; to provide duties under the Nebraska Environmental Trust Act; to create a fund; to harmonize provisions; to provide severability; and to repeal the original sections.

**LEGISLATIVE BILL 191.** Introduced by Preister, 5.

A BILL FOR AN ACT relating to environmental protection; to amend section 81-1505, Revised Statutes Supplement, 2004; to change provisions relating to rules and regulations relating to certain permits and licenses as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 192.** Introduced by Preister, 5.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-121, Reissue Revised Statutes of Nebraska; to change provisions relating to disability payments during vocational rehabilitation; and to repeal the original section.

**LEGISLATIVE BILL 193.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to juvenile services; to amend sections 43-2402, 43-2404.01, and 43-2404.02, Reissue Revised Statutes of Nebraska; to transfer oversight of the County Juvenile Services Aid Program to the Nebraska Commission on Law Enforcement and Criminal Justice; to change requirements of the program; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 194.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to liens; to amend section 52-401, Reissue Revised Statutes of Nebraska; to change provisions relating to medical liens; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 195.** Introduced by Cornett, 45; Combs, 32; Kruse,

13.

A BILL FOR AN ACT relating to administrative license revocation; to provide reimbursement to counties and cities as prescribed; to create a fund; and to provide for appropriations.

**LEGISLATIVE BILL 196.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to postsecondary education; to amend sections 85-1402 and 85-1409, Reissue Revised Statutes of Nebraska, and sections 85-1414 and 85-1920, Revised Statutes Supplement, 2004; to redefine terms; to change provisions relating to quorum and project review; to provide for carryover of appropriations; and to repeal the original sections.

**LEGISLATIVE BILL 197.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend section 79-1018.01, Reissue Revised Statutes of Nebraska; to change provisions relating to formula resources; and to repeal the original section.

**LEGISLATIVE BILL 198.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend section 79-475, Reissue Revised Statutes of Nebraska, and section 79-1022, Revised Statutes Supplement, 2004; to provide for payment adjustments to reflect transfers of property as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 199.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend section 79-473, Reissue Revised Statutes of Nebraska; to change provisions relating to annexation as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 200.** Introduced by Friend, 10; Hudkins, 21; Redfield, 12.

A BILL FOR AN ACT relating to law enforcement; to amend sections 13-926 and 81-8,239.01, Reissue Revised Statutes of Nebraska; to eliminate the strict liability requirement for pursuits by law enforcement officers; to harmonize provisions; to repeal the original sections; and to outright repeal sections 13-911 and 81-8,215.01, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 201.** Introduced by Cudaback, 36.

A BILL FOR AN ACT relating to the State Electrical Act; to amend section 81-2104, Revised Statutes Supplement, 2004; to adopt the 2005 National

Electrical Code; to repeal the original section; and to declare an emergency.

### ANNOUNCEMENT

The Chair announced tomorrow is Senator Kremer's birthday.

### BILLS ON FIRST READING

The following bills were read for the first time by title:

**LEGISLATIVE BILL 202.** Introduced by Cudaback, 36.

A BILL FOR AN ACT relating to motor vehicle registration; to amend section 60-311.01, Reissue Revised Statutes of Nebraska; to change provisions relating to license plate numbering; and to repeal the original section.

**LEGISLATIVE BILL 203.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to health care; to provide consumer protection regarding identifiable health information.

**LEGISLATIVE BILL 204.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to medical services; to amend section 47-703, Reissue Revised Statutes of Nebraska, and sections 71-919, 71-922, and 71-926, Revised Statutes Supplement, 2004; to provide a rate of payment for certain medical services and emergency protective custody situations; and to repeal the original sections.

**LEGISLATIVE BILL 205.** Introduced by Engel, 17.

A BILL FOR AN ACT relating to developmental disabilities; to eliminate the effect of certain requirements of developmental disability regions; and to outright repeal section 83-1212, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 206.** Introduced by Byars, 30; Combs, 32; Cunningham, 40; Erdman, 47; Hudkins, 21; Jensen, 20; Price, 26; Raikes, 25; Schimek, 27.

A BILL FOR AN ACT relating to developmental disabilities; to adopt the Developmental Disabilities Court-Ordered Custody Act; and to declare an emergency.

**LEGISLATIVE BILL 207.** Introduced by Stuthman, 22; McDonald, 41; Raikes, 25; Smith, 48.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-1629.04, Reissue Revised Statutes of Nebraska; to provide for service of juror summons by first-class mail; and to repeal the original section.

**LEGISLATIVE BILL 208.** Introduced by Stuthman, 22; Byars, 30; Combs, 32; Jensen, 20; Price, 26; Smith, 48; Synowiecki, 7.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Department of Health and Human Services Finance and Support.

**LEGISLATIVE BILL 209.** Introduced by General Affairs Committee: Janssen, 15, Chairperson; Connealy, 16; Cornett, 45; Erdman, 47; Fischer, 43; Friend, 10; Landis, 46.

A BILL FOR AN ACT relating to gambling; to amend sections 9-239 and 9-424, Reissue Revised Statutes of Nebraska, and sections 9-232.01, 9-232.02, 9-233, 9-255.06, 9-328, 9-329, 9-329.02, and 9-425, Revised Statutes Supplement, 2004; to change and eliminate provisions relating to licenses and fees under the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, and the Nebraska Lottery and Raffle Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 210.** Introduced by General Affairs Committee: Janssen, 15, Chairperson; Connealy, 16; Cornett, 45; Erdman, 47; Fischer, 43; Friend, 10; Landis, 46.

A BILL FOR AN ACT relating to the Nebraska County and City Lottery Act; to amend section 9-629, Reissue Revised Statutes of Nebraska; to change provisions relating to time periods for use of proceeds as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 211.** Introduced by Janssen, 15.

A BILL FOR AN ACT relating to cemeteries; to create the Statewide Cemetery Registry; to provide powers and duties; and to provide an operative date.

**LEGISLATIVE BILL 212.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to the Uniform Principal and Income Act; to amend sections 30-3116 and 30-3117, Revised Statutes Supplement, 2004; to authorize total return trusts as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 213.** Introduced by Cudaback, 36; Janssen, 15; Kruse, 13.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-601, Reissue Revised Statutes of Nebraska; to prohibit use of a mobile telephone as prescribed; to provide a penalty; to provide for enforcement; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 214.** Introduced by Beutler, 28; Brown, 6.

A BILL FOR AN ACT relating to tourism; to adopt the Nebraska Treasures

Act; to provide for designation, development, and promotion of Nebraska Treasures.

**LEGISLATIVE BILL 215.** Introduced by Brown, 6.

A BILL FOR AN ACT relating to state government; to amend sections 84-1504 and 84-1613, Revised Statutes Supplement, 2004; to authorize additional deferred compensation contributions as prescribed; to provide health insurance coverage for certain employees; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 216.** Introduced by Revenue Committee: Landis, 46, Chairperson; Baker, 44; Connealy, 16; Cornett, 45; Janssen, 15; Preister, 5; Raikes, 25; Redfield, 12.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 21-2612, 77-1784, 77-2115, 77-2701.27, 77-2704.25, 77-2708, 77-2711, 77-2716, 77-2727, 77-2734.01, 77-2753, 77-2756, 77-2775, 77-2776, 77-27,119, and 77-27,127, Reissue Revised Statutes of Nebraska, and sections 77-2701.16, 77-2704.12, 77-2786, and 85-1808, Revised Statutes Supplement, 2004; to change provisions relating to limited liability companies, electronic filing, definitions, sales and use tax, and income tax; to harmonize provisions; to provide operative dates; and to repeal the original sections.

**LEGISLATIVE BILL 217.** Introduced by Flood, 19; Connealy, 16; Cornett, 45; Janssen, 15; Pahls, 31; Smith, 48; Synowiecki, 7.

A BILL FOR AN ACT relating to public financing; to amend sections 13-808, 13-2530, and 13-2531, Revised Statutes Supplement, 2004; to adopt the Public Facilities Construction and Finance Act; to change provisions relating to bonds of joint entities and joint public agencies; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 218.** Introduced by Stuthman, 22; Aguilar, 35; Combs, 32; Erdman, 47.

A BILL FOR AN ACT relating to child abuse and neglect; to amend sections 28-714 to 28-724, 28-727, 43-2909, 43-3709, and 71-6906, Reissue Revised Statutes of Nebraska, and sections 28-710, 28-711, 28-713, 28-713.01, 28-725, and 28-726, Revised Statutes Supplement, 2004; to name an act; to change provisions relating to child abuse and neglect reports and the central register of child protection cases; to provide for a tracking system of child protection cases; to eliminate a registry; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 219.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-118, 48-177, and 48-1,110, Reissue Revised Statutes of Nebraska; to change provisions relating to third-party claims and dismissal of a cause of action; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 220.** Introduced by Cunningham, 40.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-462, 60-480, 60-4,112, 60-4,120.01, 60-4,120.02, 60-4,123, 60-4,124, 60-4,125, and 60-6,267, Reissue Revised Statutes of Nebraska; to change provisions relating to provisional operator's permits, school permits, LPD-learner's permits, and LPE-learner's permits; to require the use of occupant protection systems as prescribed; to eliminate provisions regarding operation of a motor vehicle; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal section 60-4,123.01, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 221.** Introduced by Cunningham, 40.

A BILL FOR AN ACT relating to maintenance of county roads; to amend sections 39-1811 and 39-1812, Reissue Revised Statutes of Nebraska; to modify provisions regarding the mowing of weeds; to modify provisions regarding the trimming of trees; and to repeal the original sections.

**LEGISLATIVE BILL 222.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to agriculture; to amend section 88-528, Revised Statutes Supplement, 2004; to eliminate certain licensure requirements for grain warehouses and grain dealers; to harmonize provisions; to repeal the original section; and to outright repeal section 75-903.02, Reissue Revised Statutes of Nebraska, and section 88-528.01, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 223.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to schools; to create the School Finance Review Committee; and to provide powers and duties.

**LEGISLATIVE BILL 224.** Introduced by Smith, 48; Erdman, 47; Janssen, 15.

A BILL FOR AN ACT relating to Employment Expansion and Investment Incentive Act; to amend sections 77-27,187.02 and 77-27,188, Reissue Revised Statutes of Nebraska; to change qualifications for tax incentives; and to repeal the original sections.

**LEGISLATIVE BILL 225.** Introduced by Smith, 48; Erdman, 47.

A BILL FOR AN ACT relating to solid waste; to amend section 18-1752.02, Reissue Revised Statutes of Nebraska; to change provisions relating to commencement of municipal collection service; and to repeal the original section.

**LEGISLATIVE BILL 226.** Introduced by Smith, 48; Erdman, 47.

A BILL FOR AN ACT relating to solid waste; to amend section 18-1752.02, Reissue Revised Statutes of Nebraska; to provide requirements and procedures for condemnation of private collection services; to define terms; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 227.** Introduced by Loudon, 49; Aguilar, 35; Erdman, 47; Howard, 9; Smith, 48; Stuhr, 24; Wehrbein, 2.

A BILL FOR AN ACT relating to veteran cemeteries; to amend section 12-1301, Revised Statutes Supplement, 2004; to change provisions relating to funding; and to repeal the original section.

**LEGISLATIVE BILL 228.** Introduced by Howard, 9; Kruse, 13; Thompson, 14.

A BILL FOR AN ACT relating to school funding; to amend section 79-1003, Reissue Revised Statutes of Nebraska, and sections 77-3442 and 79-1028, Revised Statutes Supplement, 2004; to change provisions relating to levy limitations; to define a term; to permit districts to exceed the applicable allowable growth rate as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 229.** Introduced by Howard, 9.

A BILL FOR AN ACT relating to education; to amend sections 79-528 and 79-1003, Reissue Revised Statutes of Nebraska; to change fall membership reporting requirements; to define and redefine terms; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 230.** Introduced by Redfield, 12; Aguilar, 35; Baker, 44; Beutler, 28; Bourne, 8; Byars, 30; Chambers, 11; Combs, 32; Connealy, 16; Cornett, 45; Cudaback, 36; Cunningham, 40; Fischer, 43; Friend, 10; Howard, 9; Hudkins, 21; Johnson, 37; Kopplin, 3; Kruse, 13; Landis, 46; Loudon, 49; Mines, 18; Pahls, 31; Dw. Pedersen, 39; D. Pederson, 42; Preister, 5; Price, 26; Raikes, 25; Schimek, 27; Schrock, 38; Stuhr, 24; Stuthman, 22; Synowiecki, 7; Thompson, 14.

A BILL FOR AN ACT relating to labor; to change provisions relating to labor organizations; to require reimbursement of a pro rata share of legal fees and court costs; and to provide a duty for the Revisor of Statutes.

**LEGISLATIVE BILL 231.** Introduced by Heidemann, 1; Burling, 33;

Combs, 32; Cudaback, 36; Cunningham, 40; Fischer, 43; Hudkins, 21; Janssen, 15; Kopplin, 3; Kremer, 34; Louden, 49; McDonald, 41; Schrock, 38.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-3442, Revised Statutes Supplement, 2004; to change provisions relating to permissible school levies; and to repeal the original section.

**LEGISLATIVE BILL 232.** Introduced by Brown, 6; Schimek, 27.

A BILL FOR AN ACT relating to county officials; to amend sections 23-1701, 23-1901, 23-3201, 32-518 to 32-523, 32-525, and 32-526, Reissue Revised Statutes of Nebraska; to authorize interlocal agreements relating to the powers and duties of county officials; to change election provisions; to harmonize provisions; and to repeal the original sections.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senators Aguilar, Byars, Cunningham, McDonald, Schimek, and Thompson asked unanimous consent to have their names added as cointroducers to LB 28. No objections. So ordered.

### **VISITORS**

Visitor to the Chamber was Senator Mines' son, Billy Mines, from Blair.

### **ADJOURNMENT**

At 12:22 p.m., on a motion by Senator Stuthman, the Legislature adjourned until 11:00 a.m., Monday, January 10, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

# **FOURTH DAY - JANUARY 10, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, January 10, 2005

#### **PRAYER**

The prayer was offered by Senator Friend.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 11:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Preister who was excused.

#### **CORRECTIONS FOR THE JOURNAL**

The Journal for the third day was approved.

#### **MOTION - Adopt Temporary Rules**

Senator Hudkins moved that the rules, as now in our possession, be adopted for today only, Monday, January 10, 2005.

The motion prevailed.

#### **REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB 1	General File
LB 2	General File
LB 3	General File
LB 4	Judiciary
LB 5	Education
LB 6	Health and Human Services
LB 7	Urban Affairs
LB 8	Natural Resources
LB 9	Government, Military and Veterans Affairs

LB 10	Business and Labor
LB 11	Government, Military and Veterans Affairs
LB 12	Business and Labor
LB 13	Business and Labor
LB 14	Urban Affairs
LB 15	Revenue
LB 16	Revenue
LB 17	Revenue
LB 18	Revenue
LB 19	Revenue
LB 20	Agriculture
LB 21	Natural Resources
LB 22	Urban Affairs
LB 23	Natural Resources
LB 24	Transportation and Telecommunications
LB 25	Health and Human Services
LB 26	Health and Human Services
LB 27	Health and Human Services
LB 28	Revenue
LB 29	Natural Resources
LB 30	Judiciary
LB 31	Natural Resources
LB 32	Natural Resources
LB 33	Natural Resources
LB 34	Natural Resources
LB 35	Government, Military and Veterans Affairs
LB 36	Government, Military and Veterans Affairs
LB 37	Government, Military and Veterans Affairs
LB 38	Revenue
LB 39	Education
LB 40	Revenue
LB 41	Banking, Commerce and Insurance
LB 42	Judiciary
LB 43	Judiciary
LB 44	Revenue
LB 45	Revenue
LB 46	Revenue
LB 47	Education
LB 48	Urban Affairs
LB 49	Banking, Commerce and Insurance
LB 50	Judiciary
LB 51	Agriculture
LB 52	Agriculture
LB 53	Government, Military and Veterans Affairs
LB 54	Government, Military and Veterans Affairs
LB 55	Government, Military and Veterans Affairs
LB 56	Government, Military and Veterans Affairs
LB 57	Judiciary
LB 58	Government, Military and Veterans Affairs

LB 59	Banking, Commerce and Insurance
LB 60	Banking, Commerce and Insurance
LB 61	Health and Human Services
LB 62	Judiciary
LB 63	Transportation and Telecommunications
LB 64	Judiciary
LB 65	Transportation and Telecommunications
LB 66	Revenue
LB 67	Transportation and Telecommunications
LB 68	Transportation and Telecommunications
LB 69	Transportation and Telecommunications
LB 70	Transportation and Telecommunications
LB 71	Agriculture
LB 72	Government, Military and Veterans Affairs
LB 73	Banking, Commerce and Insurance
LB 74	Government, Military and Veterans Affairs
LB 75	Urban Affairs
LB 76	Transportation and Telecommunications
LB 77	Transportation and Telecommunications
LB 78	Transportation and Telecommunications
LB 79	Transportation and Telecommunications
LB 80	Transportation and Telecommunications
LB 81	Judiciary
LB 82	Transportation and Telecommunications
LB 83	Transportation and Telecommunications
LB 84	Banking, Commerce and Insurance
LB 85	Health and Human Services
LB 86	Transportation and Telecommunications
LB 87	Health and Human Services
LB 88	Banking, Commerce and Insurance
LB 89	Health and Human Services
LB 90	Revenue
LB 91	Judiciary
LB 92	Urban Affairs
LB 93	Judiciary
LB 94	Natural Resources
LB 95	Education
LB 96	Government, Military and Veterans Affairs
LB 97	Banking, Commerce and Insurance
LB 98	Government, Military and Veterans Affairs
LB 99	Business and Labor
LB 100	Judiciary
LB 101	Health and Human Services
LB 102	Natural Resources
LB 103	Government, Military and Veterans Affairs
LB 104	Judiciary
LB 105	Judiciary
LB 106	Transportation and Telecommunications
LB 107	General Affairs

LB 108	General Affairs
LB 109	Revenue
LB 110	Judiciary
LB 111	Judiciary
LB 112	Judiciary
LB 113	Revenue
LB 114	Education
LB 115	Judiciary
LB 116	Judiciary
LB 117	Judiciary
LB 118	Banking, Commerce and Insurance
LB 119	Banking, Commerce and Insurance
LB 120	Natural Resources
LB 121	Natural Resources
LB 122	Business and Labor
LB 123	Judiciary
LB 124	Education
LB 125	Education
LB 126	Education
LB 127	Transportation and Telecommunications
LB 128	Judiciary
LB 129	Education
LB 130	Judiciary
LB 131	Agriculture
LB 132	Agriculture
LB 133	Revenue
LB 134	Business and Labor
LR 1CA	Education
LR 2CA	Urban Affairs
LR 3CA	Executive Board
LR 4CA	Executive Board
LR 5CA	Executive Board
LR 8CA	Natural Resources

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

**2004 INTERIM REPORT  
ON THE DISPOSITION OF  
INTERIM STUDY RESOLUTIONS**

Agriculture

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
274	Examine implications of federal court decisions for state commodity development programs	X		

275	Examine potential for federal assumption of tractor testing functions		X	
280	Review capabilities of Bureau of Animal Industry		X	
302	Examine state noxious weed control laws			X
303	Examine potential improvements to the Beginning Farmer tax incentive program		X	
349	Examine direct marketing opportunities for milk producers		X	
406	Examine issues associated with animal identification		X	

## Appropriations

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
304	Child welfare contractual services	(1)		
233	Utilization of buildings owned by the state	(1)		
295	Department of Environmental Quality financial assurance requirements, policies, and standards		(2)	
315	Patterns of spending by government agencies			X

(1) Report preparation in progress

(2) Responsibility for this resolution was taken by Natural Resources Committee

## Banking, Commerce and Insurance

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
268	Uniform Securities Act		X	
281	Market Conduct Surveillance Model Law		X	
269	Liability insurance coverage for equine activities		X	
283	Prompt payment claims for health care services			X
270	Workers' Compensation for agriculturally-related businesses		X	
343	Property and Casualty Insurance Rate and Form Act		X	

342	Uniform Trust Code		X	
241	Failure of National Warranty Insurance Company		X	
267	Insurance requirements for motor vehicles repairs			X
350	Equipment Business Regulation Act			X
294	Territorial insurance rating and use of credit reports			X

## Business and Labor

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
361	Study of Nebraska's Unemployment benefits system			X
362	Study of Workers' Compensation Laws	X		
324	Study to examine Nebraska's policy options to protect citizens from employers who bounce payroll checks			X

## Education

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
286	Interim study of issues pertaining to the operations of Class I schools			X
316	Interim study to consider steps that can be taken to meet the state's obligation to provide free instruction for all persons, with respect to cocurricular and extracurricular activities			X
326	Interim study to examine issues relating to eliminating vending machines with nonnutritional foods and beverages from primary and secondary schools			X
338	Interim study to explore options for implementing charter schools			X
351	Interim study to determine the amount of public scholarship money necessary to meet the financial need of all eligible students			X

353	Interim study to examine providing higher education classes via the Internet and other distance technology			X
354	Interim study to review the purpose, structure, and changes for the improved functioning of educational service units		X	
359	Interim study to examine feasibility of a second round of deferred maintenance projects for the University of Nebraska and state colleges	X		
363	Interim study to analyze financial effectiveness and legal requirements associated with educational lands and funds, the temporary school fund, and the permanent school fund		X	
364	Interim study to examine creation of an Educational Facilities Review Commission for public educational facilities			X
365	Interim study to review matters within the jurisdiction of the Education Committee			X
366	Interim study to collect information with regard to financing and use of the enrollment option program		X	
367	Interim study to examine methods for determining amounts to be paid by the Dept. of Health as education costs for wards of the state		X	

## Executive Board

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
319	Review of standing committee structure	X		
320	Review priority designations		X	
333	Term limits and recall provisions	X		
341	Legislative preparations for term limits		X (on-going study)	

389	Economic summit			X
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## General Affairs

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
370	Flavored Malt Beverage Classification		X	

## Government, Military and Veterans Affairs

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
284	Interim study to examine matters within the jurisdiction of the Government, Military & Veterans Affairs Committee.		X	
285	Interim study to continue examination and improvement of the state's contracting procedures.		X	
287	Interim study of the advantages and disadvantages of licensing and regulating security companies and personnel.		X	
290	Interim study to examine the legislative confirmation process of gubernatorial appointees.		X	
291	Interim study to review the implementation of legislation regarding contracts for services.		X	
306	Interim study to examine the need for and feasibility of improved parking for state employees.		X	
314	Interim study to review the ability of counties having a population of less than one thousand inhabitants to provide services required under state law.		X	
330	Interim study of the Administrative Procedure Act relating to adoption, amendment, or repeal of a rule or regulation by the affected agency or the Legislature.		X	
332	Interim study to examine ways in which to improve the Campaign Finance Limitation Act.		X	
334	Interim study to review the open		X	

	meetings and open records statutes.			
355	Interim study of the appropriate involvement between county zoning and the Department of Environmental Quality process of approving applications for livestock and waste control facilities.		X	
382	Interim study to examine the confirmation process for gubernatorial appointments.		X	
383	Interim study relating to LB 1234, the Regulatory Flexibility Act, to review the difference in costs to small businesses.		X	
399	Interim study to examine eligibility requirements for veterans' benefits.	X		

## Health and Human Services

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
317	(Erdman) Interim study to identify and categorize statutory powers and duties of the Health and Human Services System and prioritize the programs.		X	
318	(Erdman) Interim study of the overall structure of the medicaid program.		X	
331	(Schimek) Interim study of issues surrounding the high cost of prescription drugs and the availability of prescription products.		X	
356	(Jensen) Interim study of the Nebraska Mental Health Commitment Act and its implementation.		X	
357	(Jensen) Interim study to examine the relationship between thimerosal and autism.		X	
360	(Brashear, Stuthman, Landis) Interim study to determine what steps are needed to further improve the response to child		X	

	abuse and neglect.			
369	(Jensen) Interim study to continue to improve the Emergency Medical System.		X	
379	(Jensen) Interim study to examine use of a resource test on families in determining the medicaid eligibility of children and pregnant women.		X	
380	(Jensen) Interim study of state law regarding the Employment First Program.		X	
381	(Jensen) Interim study of use of a statutory lien for third-party liability cases when medicaid is involved.		X	
387	(Jensen, Cunningham, Maxwell, Erdman, Byars, Stuthman, Johnson) Interim study to examine issues within the jurisdiction of the Health and Human Services Committee.		X	

## Judiciary

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
297	State Firearms Qualifications Shoot		X	
339	Just compensation for waste management operators		X	
340	Adoption		X	
344	Attorney's Fees		X	
345	Clerk Magistrates		X	
346	Inmate Health Care		X	
347	Probation-Parole Merger		X	
348	Sexual Assault		X	
358	Sibling Visitation		X	
360	Child Abuse		X	
368	Indigent defense		X	
378	Child Support Calculations for State Wards		X	
403	Age of Majority		X	

## Natural Resources

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
278	Hazardous locations of improvements downstream from dams		X	
288	Environmental justice			X
289	Environmental Quality Council membership			X
292	Renewable energy and energy efficiency		X	
293	Uses of agricultural land for development of wind energy			X
295	Financial assurance requirements by the Department of Environmental Quality		X	
296	Electronic waste recycling		X	
335	Recycling of hazardous waste into fertilizers			X
336	Implementation of NPDES permits for confined animal feeding operations			X
337	EQC requirements for standards based on impacts on children			X
385	Special permits for big game hunting		X	
386	Livestock operation transfers			X
388	Protections afforded to cold water Class A streams		X	
404	Financing stormwater runoff programs		X	

## Nebraska Retirement Systems

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
255	Examine creation of a medical COLA type retirement benefit for retired members of the School Retirement System.		X	
256	Examine creation of Internal Revenue Code Section 401(A) type annuities by school boards or boards of education.		X	
321	Examine both the items defined as compensation and the limits		X	

	placed upon compensation increases for the calculation of retirement benefits for school employees.			
322	Examine allocation of administrative costs assessed by the Public Employees Retirement Board upon members of the state and county retirement plans.	X		
323	Examine the five employee retirement systems administered by the Public Employees Retirement Board.		X	
391	Provide an analysis and comparison of other state and political subdivision law enforcement retirement plans and benefits.	X		

## Revenue

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
308	(Landis) Interim study to continue work done by the Revenue Committee relating to comparison of Nebraska's tax structure with other states	X		
311	(Smith) Interim study to assess the feasibility of tracking sales tax revenue by specific categories	X		
327	(Stuthman) Interim study to examine Nebraska's contractor labor sales tax		X	
307	(Landis) Interim study to examine the practices and procedure regarding the use of tax sale certificates to collect delinquent taxes	X		
305	(Schrock) Interim study to examine the feasibility of differentiated property tax valuations for surface irrigated and ground water irrigated cropland	X		
384	(Schrock) Interim study to analyze the fiscal and economic impact of agricultural personal	X		

	property taxation			
312	(Smith) Interim study to compare fuel sales along Interstate 80 in Nebraska to fuel sales along Interstate 80 in Wyoming and Iowa			X
313	(Combs) Interim study to examine issues relating to the homestead exemption program			X
325	(Stuthman) Interim study to examine taxing the gain on the sale of a partnership interest by a nonresident when the sale includes tangible property located in Nebraska			X

## Transportation and Telecommunications

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
262	Issues that come under the jurisdiction of the Transportation and Telecommunications Committee Department of Motor Vehicles — Recodification of: Article 1 – Title to Motor Vehicles Article 3 – Motor Vehicle Registration		X	
263	System for issuing certificates of title for continuation motor vehicles		X	
264	Issues surrounding the regulation of wireless telecommunications companies by the PSC		X	
265	Maximum load limits, permissible loads by permit, and distribution of fees			X
266	Issues surrounding motor vehicle registration		X	
298	Examine the creation of an electronic lien titling system for motor vehicles and motor boats			X
299	Analyze public transportation throughout the state of Nebraska			X
309	Investigate expanding the		X	

	authority of the PSC to include regulation of wireless carriers in certain areas			
352	Examine whether gas tax distribution formula should be amended		X	
390	Review issues relating to LB 1176, and the successful operation of a statewide public safety interoperable data and voice communication system		X	

## Urban Affairs

LR	Subject	Completed Report Issued	Completed No Report Issued	Deferred
376	Natural gas regulation experience under State Natural Gas Regulation Act (LB 790, adopted in 2003)		X	
375	Community Development Law and tax increment financing; issues raised by LB 1233		X	
374	Villages reliance on county sheriffs for law enforcement; issues raised by LB 1043		X	
372	Growth of cities and villages; development and operation of sanitary and improvement districts (SIDs)		X	
377	Formation of Business Improvement Districts; review of current governing statutes for BIDs			X
310	Assess the feasibility of creating a statewide plumbing license system			X
373	General study of matters within the jurisdiction of the Urban Affairs Committee		X	

**COMMITTEE ON COMMITTEES REPORT**

Senator Dw. Pedersen moved to approve the final Committee on Committees report found on page 99.

The Committee on Committees report was approved with 28 ayes, 0 nays, 20 present and not voting, and 1 excused and not voting.

**BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 233.** Introduced by Pahls, 31; Cornett, 45; Kopplin, 3.

A BILL FOR AN ACT relating to elections; to amend section 32-903, Reissue Revised Statutes of Nebraska; to change provisions relating to altering or dividing precincts; and to repeal the original section.

**LEGISLATIVE BILL 234.** Introduced by Connealy, 16; Cunningham, 40; Flood, 19.

A BILL FOR AN ACT relating to cities of the first class; to amend section 16-672.01, Reissue Revised Statutes of Nebraska; to change provisions relating to storm sewer districts; and to repeal the original section.

**LEGISLATIVE BILL 235.** Introduced by Connealy, 16; Cunningham, 40; Flood, 19.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.45, Reissue Revised Statutes of Nebraska; to exempt certain materials used in the manufacture of steel or cement from sales and use tax; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 236.** Introduced by Combs, 32.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-179, Reissue Revised Statutes of Nebraska; to change provisions relating to compensation court review procedure; and to repeal the original section.

**LEGISLATIVE BILL 237.** Introduced by Combs, 32.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-125 and 48-1,102, Reissue Revised Statutes of Nebraska; to change provisions relating to awards or judgments against the state; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 238.** Introduced by Combs, 32.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-115, 48-118, 48-120, 48-125, 48-126, 48-136, 48-144.01, 48-144.03, 48-144.04, 48-145, 48-146, 48-146.03, 48-155.01, 48-178, 48-178.01, and 48-1,117, Reissue Revised Statutes of Nebraska; to change provisions relating to compensation coverage, terminology, computation of

interest, first injury reports, policy cancellation or nonrenewal, self-insurers, and acting judges; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 239.** Introduced by Schimek, 27; Aguilar, 35; Combs, 32; Kruse, 13; Preister, 5; Synowiecki, 7.

A BILL FOR AN ACT relating to postsecondary educational institutions; to amend section 85-502, Reissue Revised Statutes of Nebraska; to change provisions relating to determination of residency; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 240.** Introduced by Schimek, 27.

A BILL FOR AN ACT relating to government employees; to amend sections 48-227 and 48-229, Reissue Revised Statutes of Nebraska; to change provisions relating to a veteran hiring preference; to eliminate a retraining program; to repeal the original sections; and to outright repeal section 81-1393, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 241.** Introduced by Schimek, 27.

A BILL FOR AN ACT relating to government; to amend section 50-1302, Reissue Revised Statutes of Nebraska; to change provisions relating to review of boards and commissions; and to repeal the original section.

**LEGISLATIVE BILL 242.** Introduced by Schimek, 27.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 32-1603, 49-1401, 49-1409, 49-1413, 49-1419, 49-1420, 49-1445 to 49-1446.04, 49-1446.06, 49-1447, 49-1453, 49-1458, 49-1461.01, 49-1463.01, 49-1467, 49-1469 to 49-1469.04, 49-1479.01, 49-1480.01, 49-1481, 49-1483, 49-1486, 49-1488.01, 49-1494, 49-1496, 49-1497, 49-1499 to 49-1499.04, 49-14,101.01, 49-14,101.02, 49-14,102, 49-14,103 to 49-14,103.04, 49-14,104, 49-14,112, 49-14,115, 49-14,120, 49-14,123, 49-14,124, 49-14,125, 49-14,127, 49-14,132, 49-14,135 to 49-14,139, and 50-114.05, Reissue Revised Statutes of Nebraska; to change, transfer, and repeal provisions relating to political accountability and disclosure; to change and provide penalties; to repeal obsolete provisions; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 49-1483.01, 49-14,123.02, and 49-14,130, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 243.** Introduced by Byars, 30.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-162.02, 71-1796, and 71-17,100, Reissue Revised Statutes of Nebraska; to create the Nebraska Center for Nursing Fund; to authorize the allocation of fees to the fund; to extend the termination date of an act; to

harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 244.** Introduced by Byars, 30.

A BILL FOR AN ACT relating to occupational therapy; to amend section 71-6123, Revised Statutes Supplement, 2004; to provide an operative date for certain provisions; to harmonize provisions; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 245.** Introduced by Loudon, 49; Combs, 32.

A BILL FOR AN ACT relating to employment security law; to amend section 48-628, Reissue Revised Statutes of Nebraska; to change provisions relating to benefit disqualification; and to repeal the original section.

**LEGISLATIVE BILL 246.** Introduced by Johnson, 37.

A BILL FOR AN ACT relating to nursing home administrators; to amend section 71-6054, Reissue Revised Statutes of Nebraska; to change provisions relating to performing duties in more than one facility; and to repeal the original section.

**LEGISLATIVE BILL 247.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Public Service Commission; to amend section 75-133, Reissue Revised Statutes of Nebraska; to clarify jurisdiction relating to administrative revocations; and to repeal the original section.

**LEGISLATIVE BILL 248.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 60-3004, Reissue Revised Statutes of Nebraska; to change motor vehicle tax calculations as prescribed; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 249.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-462.01, 60-484, 60-484.01, 60-484.02, 60-4,113, 60-4,115, 60-4,117, 60-4,119, 60-4,120, 60-4,120.01, 60-4,122, 60-4,123.01, 60-4,124, 60-4,126, 60-4,127, 60-4,130, 60-4,130.02, 60-4,151, 60-4,173, 60-4,174, 60-4,175, 60-4,180, 60-1515, and 60-2904, Reissue Revised Statutes of Nebraska; to change provisions relating to the Motor Vehicle Operator's License Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 250.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to ethanol; to amend section 66-1345.04, Reissue Revised Statutes of Nebraska; to state intent relating to funding; to

repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 251.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-6,297, 60-2404, and 60-2410, Reissue Revised Statutes of Nebraska; to change provisions relating to towing; and to repeal the original sections.

**LEGISLATIVE BILL 252.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 14-109, 15-203, 16-205, 17-525, 39-2510, 39-2520, and 66-4,148, Reissue Revised Statutes of Nebraska, and sections 15-202, 66-489, 66-4,105, and 66-6,107, Revised Statutes Supplement, 2004; to prohibit certain city taxes; to change provisions relating to use of certain sales and use taxes; to change fuel tax rates as prescribed; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 253.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 14-109, 15-203, 16-205, 17-525, 39-2510, 39-2520, 66-4,148, and 66-6,109, Reissue Revised Statutes of Nebraska, and sections 15-202, 66-4,145, and 66-4,146, Revised Statutes Supplement, 2004; to prohibit certain city taxes; to change provisions relating to use of certain sales and use taxes; to change fuel tax rates as prescribed; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 254.** Introduced by Brown, 6; Chambers, 11; Howard, 9; Schimek, 27.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.15, Revised Statutes Supplement, 2004; to exempt housing agencies from sales and use taxes; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 255.** Introduced by Redfield, 12; Combs, 32; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to state government; to amend sections 73-101.01 and 73-101.02, Reissue Revised Statutes of Nebraska; to change bidding requirements; and to repeal the original sections.

**LEGISLATIVE BILL 256.** Introduced by Price, 26; Combs, 32.

A BILL FOR AN ACT relating to nursing; to amend sections 44-2803, 44-2824, 44-2827, 71-121.01, 71-168, 71-168.02, 71-1,103, 71-1,132.05, 71-1,132.07, 71-1,132.08, 71-1,132.11, 71-1,132.18, 71-1,143, 71-1,198, 71-1,339, 71-541, 71-1405, 71-1704, 71-1706, 71-1707, 71-1709.02,

71-1714, 71-1716, 71-1716.02, 71-1716.03, 71-1716.05, 71-1717, 71-1718.01, 71-1718.02, 71-1721, 71-1721.07 to 71-1726.02, 71-1729 to 71-1731, 71-1735, 71-1737, 71-1738, 71-1743, 71-1747, 71-1749, 71-1750, 71-1753 to 71-1755, 71-1757, 71-1913.01, 71-2610.01, 71-5191, 77-2704.09, 79-214, and 79-221, Reissue Revised Statutes of Nebraska, and sections 18-1738, 28-401, 71-1,142, 83-4,157, and 83-4,159, Revised Statutes Supplement, 2004; to adopt the Clinical Nurse Specialist Practice Act and the Advanced Practice Registered Nurse Licensure Act; to rename the Advanced Practice Registered Nurse Act; to eliminate a term relating to the Nurse Practice Act; to change provisions relating to the Board of Nursing and the Board of Advanced Practice Registered Nurses; to change provisions relating to licensure of advanced practice registered nurses; to provide for certification of nurse practitioners; to name the Certified Registered Nurse Anesthetist Act; to change provisions relating to regulation of certified nurse midwives, certified registered nurse anesthetists, and clinical nurse specialists; to eliminate an advisory council; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 71-1705 and 71-1736, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 257.** Introduced by Beutler, 28; Redfield, 12.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-1,110, Reissue Revised Statutes of Nebraska; to provide for coordination of claims and benefits under laws of different jurisdictions; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 258.** Introduced by Burling, 33; Stuthman, 22.

A BILL FOR AN ACT relating to public assistance; to amend section 68-115, Reissue Revised Statutes of Nebraska; to change provisions relating to legal settlement; and to repeal the original section.

**LEGISLATIVE BILL 259.** Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to juvenile services; to amend section 43-2412, Reissue Revised Statutes of Nebraska; to create a work group; to provide duties; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 260.** Introduced by Stuhr, 24; Beutler, 28; Brown, 6; Combs, 32; Fischer, 43; Howard, 9; Hudkins, 21; Landis, 46; McDonald, 41; Price, 26; Redfield, 12; Schimek, 27; Thompson, 14.

A BILL FOR AN ACT relating to human rights; to create a task force; to provide duties; and to declare an emergency.

**LEGISLATIVE BILL 261.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections

77-1338, 77-1355, 77-5024.01, and 77-5028, Reissue Revised Statutes of Nebraska, and sections 13-509, 77-1315, 77-1315.01, 77-1344, 77-1514, and 77-5007, Revised Statutes Supplement, 2004; to eliminate agricultural and horticultural land valuation boards and land manual areas; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 77-1378, 77-1379, 77-1381 to 77-1383, 77-5024, and 77-5025, Reissue Revised Statutes of Nebraska, and sections 77-1380 and 77-1384, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 262.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to cemeteries; to amend sections 12-402, 16-242, and 17-946, Reissue Revised Statutes of Nebraska; to authorize certain cities and villages to use funds for the purchase and development of land as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 263.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-101, 77-202.02, 77-202.12, 77-1311, 77-1331, 77-1347, 77-1504, and 77-1507, Reissue Revised Statutes of Nebraska, and sections 23-125, 77-1303, 77-1345.01, 77-5027, and 79-1016, Revised Statutes Supplement, 2004; to define a term; to change tax levy, administration, and appeal provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 264.** Introduced by Howard, 9; Brown, 6; Kruse, 13; Price, 26; Stuhr, 24.

A BILL FOR AN ACT relating to children; to state findings; to define terms; and to provide for secondary prevention programs.

**LEGISLATIVE BILL 265.** Introduced by Howard, 9; Brown, 6; Byars, 30; Kruse, 13; Loudon, 49; Price, 26.

A BILL FOR AN ACT relating to social services; to amend section 68-1207.01, Reissue Revised Statutes of Nebraska; to change provisions relating to reports; and to repeal the original section.

**LEGISLATIVE BILL 266.** Introduced by Howard, 9; Aguilar, 35; Bourne, 8; Byars, 30; Connealy, 16; Cornett, 45; Fischer, 43; Kruse, 13; Loudon, 49; Preister, 5; Price, 26; Raikes, 25; Schimek, 27; Stuhr, 24; Thompson, 14.

A BILL FOR AN ACT relating to social services; to amend section 68-1207, Reissue Revised Statutes of Nebraska; to provide duties for the Director of Health and Human Services relating to caseloads; and to repeal the original section.

**LEGISLATIVE BILL 267.** Introduced by Howard, 9; Aguilar, 35; Bourne, 8; Connealy, 16; Cornett, 45; Kruse, 13; Louden, 49; Preister, 5; Price, 26; Schimek, 27; Thompson, 14.

A BILL FOR AN ACT relating to social services; to amend sections 68-1207 and 68-1207.01, Reissue Revised Statutes of Nebraska; to state intent; to appropriate funds; and to repeal the original sections.

**LEGISLATIVE BILL 268.** Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Connealy, 16; Janssen, 15; Landis, 46; Schimek, 27.

A BILL FOR AN ACT relating to the Volunteer Emergency Responders Recruitment and Retention Act; to amend sections 35-1310, 35-1312, 35-1324, and 35-1330, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to administration of service award programs; and to repeal the original sections.

**LEGISLATIVE BILL 269.** Introduced by Erdman, 47.

A BILL FOR AN ACT relating to minors; to provide for judicial emancipation of minors.

**LEGISLATIVE BILL 270.** Introduced by Erdman, 47; Foley, 29; Friend, 10; Redfield, 12; Smith, 48; Synowiecki, 7.

A BILL FOR AN ACT relating to education; to provide for part-time enrollment and for participation by exempt students in public school courses and activities; and to provide duties for school boards.

**LEGISLATIVE BILL 271.** Introduced by Combs, 32.

A BILL FOR AN ACT relating to the Uniform Licensing Law; to amend section 71-1,307, Reissue Revised Statutes of Nebraska; to redefine mental health practice; and to repeal the original section.

**LEGISLATIVE BILL 272.** Introduced by Cunningham, 40; Connealy, 16; Flood, 19; Howard, 9; Jensen, 20; Kremer, 34; Langemeier, 23; McDonald, 41; Raikes, 25.

A BILL FOR AN ACT relating to long-term care; to adopt the Long-Term Care Partnership Program Development Act.

**LEGISLATIVE BILL 273.** Introduced by Cunningham, 40; Bourne, 8; Combs, 32; Connealy, 16; Erdman, 47; Kremer, 34; McDonald, 41; Stuhr, 24.

A BILL FOR AN ACT relating to economic development; to adopt the Building Entrepreneurial Communities Act.

**LEGISLATIVE BILL 274.** Introduced by Transportation and Telecommunications Committee: Baker, 44, Chairperson; Aguilar, 35; Foley, 29; Hudkins, 21; Smith, 48; Stuthman, 22.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 18-1214, 39-2215, 44-1545, 44-3521, 60-102, 60-104, 60-106, 60-108, 60-465, 60-505.02, 60-653, 60-683, 60-685, 60-697, 60-6,100, 60-6,162, 60-6,226, 60-6,246, 60-6,255, 60-6,298, 60-6,309, 60-6,347, 60-6,355, 60-6,364, 60-6,375, 60-1303, 60-1306, 60-1307, 60-1401.02, 60-1411.02, 60-1515, 60-1801, 60-1803, 60-1804, 60-1807, 60-1901, 60-1902, 60-2507, 60-2701, 75-305, 77-1342, 77-5403, and 81-1023, Reissue Revised Statutes of Nebraska, and sections 13-324, 13-518, 13-2814, 18-1736, 18-1737, 23-186, 66-482, 75-363, 77-2703, 81-2005, and 89-187, Revised Statutes Supplement, 2004; to adopt the Motor Vehicle Registration Act; to change and eliminate provisions relating to motor vehicle registration; to transfer motor vehicle tax provisions; to harmonize provisions; to repeal the original sections; and to outright repeal sections 60-301 to 60-304, 60-305.01 to 60-305.04, 60-305.06, 60-305.08, 60-306, 60-308 to 60-312.01, 60-314 to 60-315.01, 60-318 to 60-325, 60-326.01, 60-328, 60-328.02 to 60-332, 60-334, 60-335, 60-336 to 60-339, 60-343 to 60-364, 60-6,320 to 60-6,333, and 60-3001 to 60-3009, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 275.** Introduced by Transportation and Telecommunications Committee: Baker, 44, Chairperson; Aguilar, 35; Foley, 29; Hudkins, 21; Smith, 48; Stuthman, 22.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-301, 60-302, 60-311.02 to 60-311.05, 60-311.08 to 60-311.10, 60-311.15, 60-311.16, 60-311.20, 60-311.23, 60-312, 60-320, 60-323, 60-326.01, 60-331, 60-332, 60-465, 60-6,356, 60-1407.03, 60-1407.04, 60-1801, 60-2701, 60-3003, 60-3005, 60-3005.01, and 60-3007, Reissue Revised Statutes of Nebraska; to define and redefine terms; to change provisions relating to registration applications, license plates, historical vehicles, transporter plates, trailers, registration fees, all-terrain vehicles, and motor vehicle taxes and fees; to provide and change powers and duties; to change penalties; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 276.** Introduced by Transportation and Telecommunications Committee: Baker, 44, Chairperson; Aguilar, 35; Foley, 29; Hudkins, 21; Smith, 48; Stuthman, 22.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 42-371, 52-1801, 60-302, 60-314, 60-6,309, 60-6,375, 60-1411.02, 60-1417, 60-1419, 60-3004, and 75-386, Reissue Revised Statutes of Nebraska, sections 13-910, 23-186, 81-8,219, and 81-2004.02, Revised Statutes Supplement, 2004, and sections 2A-104 and 9-311, Uniform Commercial Code; to adopt the Motor Vehicle Certificate of Title Act; to provide

penalties; to harmonize provisions; to repeal the original sections; and to outright repeal sections 60-102 to 60-111.01, 60-112 to 60-127, and 60-129 to 60-169, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 277.** Introduced by Transportation and Telecommunications Committee: Baker, 44, Chairperson; Aguilar, 35; Foley, 29; Hudkins, 21; Smith, 48; Stuthman, 22.

A BILL FOR AN ACT relating to certificates of title; to amend sections 60-102 to 60-107, 60-108, 60-110, 60-111, 60-112, 60-114, 60-115, 60-117, 60-129.05, 60-139, 60-146, 60-147, 60-150, 60-151, 60-152, 60-154, 60-155, 60-157, 60-158, 60-162, 60-168, 60-169, and 60-314, Reissue Revised Statutes of Nebraska, and section 23-186, Revised Statutes Supplement, 2004; to change provisions relating to applicability of law, vehicle identification numbers, lost certificates, liens, and dealers; to eliminate provisions relating to refiling of certificates; to harmonize provisions; to repeal the original sections; and to outright repeal section 60-107.01, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 278.** Introduced by Cunningham, 40; Combs, 32; Engel, 17; Erdman, 47; Jensen, 20.

A BILL FOR AN ACT relating to medical assistance; to amend section 30-2201, Revised Statutes Supplement, 2004; to provide for notice of appointment of a personal representative under the Nebraska Probate Code as prescribed; to provide a lien against third parties for payment of medical assistance; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 279.** Introduced by Combs, 32.

A BILL FOR AN ACT relating to civil procedure; to provide for attorney's fees in contract actions as prescribed; and to provide a duty for the Revisor of Statutes.

**LEGISLATIVE BILL 280.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to abuse and neglect; to amend sections 28-727, 28-807, and 28-813.02, Reissue Revised Statutes of Nebraska, and sections 28-710 and 28-711, Revised Statutes Supplement, 2004; to define terms; to provide additional reporting requirements and immunity; and to repeal the original sections.

**LEGISLATIVE BILL 281.** Introduced by Cornett, 45; Combs, 32; Connealy, 16; Janssen, 15; Kruse, 13.

A BILL FOR AN ACT relating to the Political Subdivisions Tort Claims Act; to amend sections 13-919 and 13-920, Reissue Revised Statutes of Nebraska; to change limitation of action provisions; and to repeal the original sections.

**LEGISLATIVE BILL 282.** Introduced by Redfield, 12; Combs, 32; Cunningham, 40; Erdman, 47; Friend, 10; Janssen, 15; Jensen, 20; Kruse, 13; Pahls, 31; Smith, 48; Stuthman, 22.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-603 and 28-604, Revised Statutes Supplement, 2004; to provide for the aggregation of amounts in determining the classification of offenses for forgery in the second degree and criminal possession of a forged instrument; and to repeal the original sections.

**LEGISLATIVE BILL 283.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-1504, 77-1507, and 77-1613.04, Reissue Revised Statutes of Nebraska, and sections 77-1315.01, 77-1502, and 77-1504.01, Revised Statutes Supplement, 2004; to change provisions relating to property equalization timeframes; and to repeal the original sections.

**LEGISLATIVE BILL 284.** Introduced by Stuthman, 22; Baker, 44; Cunningham, 40.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-301, 60-354, 60-356, and 75-386, Reissue Revised Statutes of Nebraska; to update references to the International Registration Plan; to change provisions relating to trip permits; to eliminate an obsolete duty of the Division of Motor Carrier Services; and to repeal the original sections.

**LEGISLATIVE BILL 285.** Introduced by Stuthman, 22; Combs, 32; Jensen, 20; Johnson, 37; Schimek, 27.

A BILL FOR AN ACT relating to schools; to adopt the Nutrition in Schools Act.

**LEGISLATIVE BILL 286.** Introduced by McDonald, 41; Loudon, 49.

A BILL FOR AN ACT relating to fences; to amend section 34-110, Reissue Revised Statutes of Nebraska; to change fence viewers' fees; and to repeal the original section.

**LEGISLATIVE BILL 287.** Introduced by McDonald, 41; Janssen, 15; Loudon, 49.

A BILL FOR AN ACT relating to cemeteries; to require a study and report as prescribed.

**LEGISLATIVE BILL 288.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to motor vehicles; to amend sections

43-1904, 43-1906, 60-310, and 60-315, Reissue Revised Statutes of Nebraska; to provide for child abuse prevention plates; to provide for the distribution of fees; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 289.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to cities of the first class; to amend section 16-117, Reissue Revised Statutes of Nebraska; to change provisions relating to annexation; to provide powers and duties; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 290.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to elections; to amend sections 32-904 and 32-1041, Reissue Revised Statutes of Nebraska; to authorize the use of other locations for voting and counting votes; and to repeal the original sections.

**LEGISLATIVE BILL 291.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1340, Reissue Revised Statutes of Nebraska; to change provisions relating to state assumption of the county assessment function; and to repeal the original section.

**LEGISLATIVE BILL 292.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to foreign corporations; to amend sections 21-20,177 and 21-20,179, Reissue Revised Statutes of Nebraska; to provide consent to service of search warrants; and to repeal the original sections.

**LEGISLATIVE BILL 293.** Introduced by Schimek, 27; Aguilar, 35; McDonald, 41.

A BILL FOR AN ACT relating to the Livestock Waste Management Act; to amend section 54-2425, Reissue Revised Statutes of Nebraska; to change application review procedures; and to repeal the original section.

**LEGISLATIVE BILL 294.** Introduced by Flood, 19; Redfield, 12; Thompson, 14.

A BILL FOR AN ACT relating to identity theft; to amend section 28-608, Revised Statutes Supplement, 2004; to create the identity theft passport program; to change the offense of criminal impersonation; to provide duties for the Attorney General; and to repeal the original section.

**LEGISLATIVE BILL 295.** Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to the Motor Vehicle Operator's License

Act; to amend section 60-4,182, Reissue Revised Statutes of Nebraska; to change point assessments with respect to failure to report an accident; and to repeal the original section.

**LEGISLATIVE BILL 296.** Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to economic development; to create a fund for tourism development purposes.

**LEGISLATIVE BILL 297.** Introduced by Business and Labor Committee: Cunningham, 40, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Schimek, 27.

A BILL FOR AN ACT relating to the State Contract Claims Act; to amend section 81-8,305, Reissue Revised Statutes of Nebraska; to change claim procedures; and to repeal the original section.

**LEGISLATIVE BILL 298.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to the Petroleum Release Remedial Action Act; to amend section 66-1510, Revised Statutes Supplement, 2004; to redefine a term; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 299.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1502, Revised Statutes Supplement, 2004; to change property tax protest procedures; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 300.** Introduced by Brown, 6; Synowiecki, 7.

A BILL FOR AN ACT relating to revenue and taxation; to provide for assessment by the Property Tax Administrator of certain real property subject to land-use restrictions.

## RESOLUTION

**LEGISLATIVE RESOLUTION 9.** Introduced by Cunningham, 40; Erdman, 47; Howard, 9; Jensen, 20; Kremer, 34; McDonald, 41; Raikes, 25.

WHEREAS, current federal and state medicaid expenditures for long-term care services in Nebraska exceed \$428,000,000 annually, with the state's annual share at approximately \$171,000,000; and

WHEREAS, skyrocketing costs of providing care to persons who need assistance to meet daily needs have hit the middle class particularly hard; and

WHEREAS, the national average cost for nursing home care is approximately \$50,000 per year; and

WHEREAS, costs to the State of Nebraska will rise on account of increasing demands for services as our population ages; and

WHEREAS, the purpose of a long-term care partnership program is to provide incentives to individuals to purchase long-term care insurance, and consequently to relieve the financial burdens on the states when they assume payment for the long-term care needs of their citizens under the medicaid program, by allowing individuals who exhaust qualified private long-term care policy benefits to protect an equivalent value of assets and still satisfy medicaid's financial eligibility requirements; and

WHEREAS, the concept of a long-term care partnership results in private insurance paying first and government paying last; and

WHEREAS, the four states that have had partnership plans for almost a decade, specifically California, Connecticut, Indiana, and New York, have experienced significant savings to taxpayers, and have seen less than one hundred total partnership purchasers qualify for medicaid; and

WHEREAS, American citizens in forty-six states, the District of Columbia, and territories of the United States are being discriminated against by not being able to enjoy the benefits provided by long-term care partnership plans due to a restriction present in section 1917(b)(1)(C) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)) which has discouraged additional states from enacting long-term care partnership programs by effectively removing the major incentive for individuals to participate.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature urges the United States Congress to amend section 1917(b)(1)(C) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)) by deleting May 14, 1993, as the deadline for approval by states of long-term care partnership plans, thus affording states throughout the nation the ability to give their citizens the same rights to participate in those types of plans.

2. That the Clerk of the Legislature send a copy of this resolution to the President of the Senate and the Speaker of the House of Representatives of Congress and the congressional delegation representing the State of Nebraska in the Congress of the United States.

### **SPEAKER'S ANNOUNCEMENT**

Pursuant to Rule 4, Section 8, LR 9 was referred to the Reference Committee.

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 10.** Introduced by Hudkins, 21; Aguilar, 35; Baker, 44; Combs, 32; Cudaback, 36; Cunningham, 40; Foley, 29; Heidemann, 1; Janssen, 15; Langemeier, 23; Loudon, 49; McDonald, 41; Dw. Pedersen, 39; Smith, 48; Stuhr, 24; Stuthman, 22.

WHEREAS, the Nebraska 4-H Youth Development Program, through its dedicated adult volunteers, plays a vital role in nurturing and helping to develop our state's greatest natural resource, its youth; and

WHEREAS, the Nebraska 4-H Youth Development Program is a dynamic, volunteer educational program of the University of Nebraska Cooperative Extension Service, reaching the youth in all ninety-three counties across our state; and

WHEREAS, the Nebraska 4-H Youth Development Program has been providing the youth of our state with educational and leadership opportunities since 1902; and

WHEREAS, the Nebraska 4-H Youth Development Program offers the youth of our state a unique opportunity to gain valuable life experiences through hands-on learning activities, including educational workshops, community projects, presentation experiences, camps, conferences, before-and-after-school programs, and other events at local, county, district, state, national, and international levels; and

WHEREAS, the Nebraska 4-H Youth Development Program teaches the youth of our state a variety of personal and professional skills through the more than one hundred fifty projects that it makes available to them; and

WHEREAS, the Nebraska 4-H Youth Development Program was a national leader in 4-H youth participation in 2003-04 among those in the eligible age groups of five through eighteen.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes the month of February as Nebraska 4-H Month and urges all Nebraskans to avail themselves of the opportunity to become more aware of their state's outstanding 4-H program and support the work of the 4-H University of Nebraska Cooperative Extension Service Youth Development Program.

2. That a copy of this resolution be sent to the Nebraska State 4-H office.

Laid over.

## ANNOUNCEMENTS

The Agriculture Committee elected Senator Erdman as Vice Chairperson.

The Business and Labor Committee elected Senator Combs as Vice Chairperson.

The Natural Resources Committee elected Senator Stuhr as Vice Chairperson.

The Urban Affairs Committee elected Senator Connealy as Vice Chairperson.

The Education Committee elected Senator Byars as Vice Chairperson.

The Government, Military and Veterans Affairs Committee elected Senator Brown as Vice Chairperson.

The Judiciary Committee elected Senator Dw. Pedersen as Vice

Chairperson.

### **REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of January 7, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Abboud, Chris, Public Affairs Group  
Agri-Business Association, Nebraska  
Las Vegas Sands, Inc.  
Metro Area Transit  
Monsanto  
Omaha Police Union, Local 101

Abboud, Greg  
Abboud, Chris, Public Affairs Group

Adair, Peggy  
League of Women Voters of Nebraska

Adams, John H.  
International Gamco, Inc.

Adams, Jr., Donald D.  
Nebraskans First, Inc.

Amack, Angela K.  
Credit Management  
Grand Island Area Economic Development Corporation

American Communications Group, Inc.  
Behavioral Health Organizations, Nebraska Association of  
Center for Rural Affairs  
Counseling Association, Nebraska  
Emergency Medical Service Association, Nebraska  
Engineers and Architects, Nebraska Board of  
Girl Scout Legislative Monitoring Network, Nebraska  
Iowa/Nebraska Primary Care Association  
Nebraskans for Research  
Papio-Missouri Natural Resources District  
Physical Therapy Association, Nebraska Chapter of American  
Physician Assistants, Nebraska Academy of  
Psychological Association, Nebraska  
Public Employees, AFSCME Local 61, Nebraska Association of  
Respiratory Care, Nebraska Society for

Retired School Personnel, Nebraska Association of  
Speech, Language, & Hearing Association, Nebraska  
Teamsters Local Union 554  
YMCA of Nebraska

Andersen, Robert C.  
Cooperative Council, Nebraska

Anderson, Robert L.  
Agri-Business Association, Nebraska  
Anderson Management Services, Inc.

Anderson, Shannon M.  
Alegent Health

Anderson, Tim W.  
Central Nebraska Public Power & Irrigation District

Apel, Justin  
Resources Districts, Nebraska Association of

Aspengren, Eric  
Nebraskans Against the Death Penalty

Baack, Dennis G.  
Community College Association, Nebraska

Bailey, Jon M.  
Center for Rural Affairs

Barrett, John  
Aquila

Bateman, Joseph R.  
Union Pacific Railroad

Beattie, George  
Bankers Association, Nebraska

Beermann, Allen J.  
Press Association, Nebraska

Belcher, Barbara N.  
Merck & Company

Bell, David  
Loup River Public Power District

Benjamin, Connie

## AARP

Boehm, John M.  
Mortgage Association, Nebraska

Bohlke, Ardyce  
Good Samaritan Village of Hastings

Bohrer, Bruce J.  
Lincoln Chamber of Commerce

Bonaiuto, John A.  
School Boards, Nebraska Association of

Boryca, Kelly J.  
Pfizer, Inc.

Boucher, Richard  
Sheriffs Association, Nebraska

Brady, Justin J.  
Radcliffe, Walter H. of Radcliffe & Associates

Broer, Walter L.  
General Contractors, Nebraska Building Chapter, Associated

Bromm, Curt  
Cable Communications Association, Nebraska  
City of Elkhorn  
Telecommunications Association, Nebraska

Bruning, Deonne L.  
Cox Nebraska Telcom, LLC  
U. S. Cellular

Buntain, David R.  
Medical Association, Nebraska

Butz, Timothy C.  
ACLU Nebraska

Bydalek, Dave  
Family First

Campbell, Mary M./Campbell & Associates  
AIA Nebraska  
Beer Wholesalers Association, Nebraska  
Cable Communications Association, Nebraska  
Educational Service Units Administrators Association

Friends of Nebraska Nonprofit Hospitals  
Friends of the Nebraska Environmental Trust  
Lincoln Public Schools  
Nature Conservancy Action Fund, The  
Region II and V Services  
State Troopers Association of Nebraska, Inc.  
University of Nebraska  
Wholesale Liquor Distributors Association, Nebraska

Carstenson, Eric B.  
Telecommunications Association, Nebraska

Cavanaugh Law Firm, PC, LLO  
Creighton University  
Explore Information Services, LLC  
Fraternal Order of Police, Nebraska  
Independent Insurance Agents of Nebraska  
Tenet Health System

Cavanaugh, James P.  
Cavanaugh Law Firm PC, LLO

Cavanaugh, Patrick B.  
Cavanaugh Law Firm PC, LLO

Cheloha, John A. 'Jack'  
City of Omaha

Chermok, Ruth  
Electrical Contractors Association, National

Clark, Douglas R.  
Metropolitan Utilities District

Clayburn, Neal  
Lincoln Education Association

Cover, Joni R.  
Pharmacists Association, Nebraska

Craig, Robert B.  
American Legion of Nebraska

Crawford, Derek  
Kraft Foods North America, Inc. - Altria Corporate Services, Inc.  
Philip Morris USA, Inc. - Altria Corporate Services, Inc.

Crawford, Kristin

Engineers, Nebraska Society of Professional

Cunningham, James R.

Catholic Conference, Nebraska

Cutshall & Associates

Area Agencies on Aging, Nebraska Association of

BryanLGH Health System

Cattlemen, Inc., Nebraska

College Systems, Board of Trustees of Nebraska State

Community Lottery System, Inc.

County Attorneys Association, Nebraska

Dietetic Association, Nebraska

Family Physicians, Nebraska Academy of

Financial Services Coalition, Nebraska

Funeral Directors Association, Nebraska

Legal Aid of Nebraska

Lincoln Medical Education Partnership

Manufactured Housing Association, Nebraska

Metropolitan Utilities District

Nebraska Public Power District

Pfizer, Inc.

Poultry Industries, Inc., Nebraska

Public Television, Inc., Nebraskans for

Resources Districts, Nebraska Association of

Rural Community Schools Association, Nebraska

Ruth Mueller Robak LLC

Southern Public Power District

Southwest Nebraska Coalition

Union Pacific Railroad

Water Coalition, Nebraska

Cutshall, Bruce A.

Cutshall & Associates

DeCamp, John W.

Chiropractic Physicians Association, Nebraska

Veterans of Foreign Wars

Deppe, Jonah May

League of Women Voters of Nebraska

Dibbern, Chris M.

Nebraska Municipal Power Pool

Dix, Larry

County Officials, Nebraska Association of

Dobler, James B.

Farmers Mutual of Nebraska

Dodge, Melissa

Voices for Children

Dubas, Annette

Friends of the Constitution

Dudley, William H.

AFLAC

Dulaney, Michael S.

School Administrators, Nebraska Council of

Edson, Dean E.

Resources Districts, Nebraska Association of

Elliott, Joseph W.

Professional Insurance Agents of Nebraska

Eret, Don

Tractor Testing Laboratory, Supporters of Nebraska

Erickson, Julie S.

American Communications Group, Inc.

Evans, Eric A.

Advocacy Services, Inc., Nebraska

Eynon-Kokrda, Elizabeth

Omaha Public Schools

Fahleson, Mark A.

Abengoa Bioenergy Corporation

Linweld, Inc.

Ferrell, Beth Bazyn

County Officials, Nebraska Association of

Festersen, Pete

Omaha Chamber of Commerce, Greater

Fischer, Gary L.

Family Housing Advisory Services, Inc.

Flannery, John S.

Verizon

- Fraizer, Ted J.  
AFLAC  
Insurance Association, American  
Mutual of Omaha Insurance Companies
- Fraizer, Theodore D. (Tad)  
Fraizer & Fraizer Law Office
- Fram Jr., A. James  
Lincoln Chamber of Commerce
- Funk, Christine  
Planned Parenthood of Nebraska & Council Bluffs
- Gale, Kristine  
Fair Board, Nebraska State
- Gilbertson, Korby M.  
Radcliffe, Walter H. of Radcliffe & Associates  
Wildlife Protectors Association, Inc./Operation Game Thief, Nebraska
- Goc, John J.  
Belle of Sioux City (BOSC LP)  
Metropolitan Utilities District
- Gordon, James E.  
DeHart & Darr Associates
- Gossman, Abigail  
MedImmune, Inc.
- Gottschalk, Kristen  
Rural Electric Association, Nebraska
- Gould, John 'Jack'  
Common Cause  
Common Cause Nebraska
- Grieser, Mary Taylor  
Certified Public Accountants, Nebraska Society of
- Griess, James R.  
Education Association, Nebraska State
- Hale, Brian R.  
School Boards, Nebraska Association of
- Hall, Kimberle M.  
Home & Community Health Agencies, Nebraska Association of

Hallstrom, Robert J.

Bankers Association, Nebraska  
Friends of Nebraska Nonprofit Hospitals  
National Federation of Independent Business  
Nebraskans For Workers Compensation Equity  
NETWORKS, Inc.  
Pharmacists Association, Nebraska

Hansen, John K.

Farmers Union, Nebraska

Harris, Nance

Trucking Association, Nebraska

Hartmann, William

One-Call Notification Center, Nebraska Statewide

Harvey, William F.

Big Red Lottery Services, Ltd.

Hassebrook, Jr., Charles

Center for Rural Affairs

Head, Craig J.

Farm Bureau Federation, Nebraska

Hedman, Gary

Southern Public Power District

Heine, Bruce W.

Magellan Midstream Partners

Higgins, Shirley

Nebraska Public Power District

Hogrefe, Raymond H.

National Association of Retired Federal Employees, NE Federation

Holmquist, David W.

American Cancer Society

Holmquist, Jay

Rural Electric Association, Nebraska

Hood, Jane Renner

Humanities Council, Nebraska

Horne, Virgil L.

## Lincoln Public Schools

Hybl, Michael G. - TELEC Consulting Resources, Inc.

Cambridge Telephone Company  
Clarks Telecommunications Co.  
Consolidated Telephone Company  
Hamilton Telecommunications  
Hartington Telecommunications, Inc.  
Hershey Coop Telephone Co.  
HunTel Systems, Inc.  
K & M Telephone Company  
Nebraska Central Telephone Company  
Northeast Nebraska Telephone Co.  
Stanton Telecom, Inc.  
Three River Telco  
Trucking Association, Nebraska

Intermill, Mark  
AARP

Jaeschke, Ronda  
Kinder Morgan, Inc.

Jenkins, Thomas J.  
Blue Cross & Blue Shield of Nebraska

Jensen, Ronald L.  
Dental Hygienists Association, Nebraska  
Homes & Services for the Aging, Nebraska Association of  
Kraft Foods North America, Inc. - Altria Corporate Services, Inc.  
Magellan Health Services, Inc.  
Marriage and Family Therapy, The Nebraska Association for  
Nurse Anesthetists, Nebraska Association of  
Optometric Association, Nebraska  
Philip Morris USA, Inc. - Altria Corporate Services, Inc.  
Podiatric Medical Association, Nebraska  
Private Resources, Nebraska Association of  
Radiologic Technologists, Nebraska Society of

Jensen, S. Michael  
Great Plains Communications

Johnson, DeMaris  
Cable Communications Association, Nebraska  
Check Cashers, Nebraska Association of  
County Attorneys Association, Nebraska  
Water Resources Association, Nebraska

Johnson, Dick

Builders and Contractors, Inc., Associated

Johnson, Rod E.

Pork Producers Association, Nebraska

Johnson, Sandra A.

Medical Association, Nebraska

Jordison, John C.

Great Plains Communications

Kamm, Richard D.

Class VI Association of Schools

School Finance Coalition, Nebraska

Kay, Sara A.

AIA Nebraska

Keetle, Roger S.

Hospital Association, Nebraska

Keigher, Timothy P.

Petroleum Marketers & Convenience Store Assn., Nebraska

Rasmussen Legislative Consultants, Inc.

Kelley, Michael of Kelley & Lehan, PC

Beverage Operators of Nebraska, Responsible

Douglas County, Nebraska

Eastern Nebraska Human Services Agency

Elevator Industry Work Preservation

Horsemen's Benevolent & Protective Association

Ignition Interlock Systems of IA, Inc.

Kelley & Lehan, PC

Nebraskans for Change

Omaha Airport Authority

Omaha Exposition & Racing, Inc.

Radcliffe, Walter H. of Radcliffe & Associates

Kelsey, Michael D.

Cattlemen, Inc., Nebraska

Kennedy, Barry L.

Chamber of Commerce & Industry, Nebraska

Kenny, Timothy R.

Investment Finance Authority, Nebraska

Kerr, Karren

League of Women Voters of Nebraska

- Kevil, G. Bruce  
Home Builders Association, Nebraska State
- Kierstead, Roberta  
Planned Parenthood of Nebraska & Council Bluffs
- Kilgarin, Karen  
Education Association, Nebraska State
- King, Terry L.  
General Contractors of America, NE Chapter, Associated
- Kissel, Gordon  
Kissel/E&S Associates, LLC
- Kissel/Erickson & Sederstrom Associates, LLC  
Alegent Health  
American Petroleum Institute  
Ameristar Casinos, Inc.  
Anheuser-Busch Companies  
CASA Association, Nebraska  
Cooperative Council, Nebraska  
Erickson & Sederstrom, PC  
Goodwill Industries, Nebraska  
Hearing Society, Nebraska  
Historical Society, Nebraska State  
Investment Finance Authority, Nebraska  
Lancaster County Board of Commissioners  
Lincoln Electric System  
Midlands Choice  
Nebraska Municipal Power Pool  
Network Association, Nebraska  
Professional Engineers Coalition  
Telecommunications Business Users Coalition, Nebraska  
West Corporation
- Kohout, Joseph D.  
Beverage Operators of Nebraska, Responsible  
Kelley & Lehan, PC
- Kramer, David J.  
Republican Party, Nebraska
- Kratz, Dean G.  
General Contractors, Nebraska Building Chapter, Associated
- Krebsbach, Laura  
Sierra Club, Nebraska

- Krumland, Gary G.  
League of Nebraska Municipalities
- Kruse, Larry D.  
Glaxo Smith Kline
- Kulesher, Kate M.  
Wyeth
- Lange, Robert G.  
Ameritas Life Insurance Corporation
- Larsen, Carlin L.  
Qwest Communications
- Lehmann, Lynn  
Kinder Morgan, Inc.
- Lengel, Patricia  
Kinder Morgan, Inc.
- Libsack, Fiona  
Regional West Health Services
- Licht, Alice L.  
Agri-Business Association, Nebraska  
Anderson Management Services, Inc.  
Auctioneers Association, Nebraska  
Automotive Recycling Industry of Nebraska  
Aviation Trade Association, Nebraska  
Hotel & Motel Association, Inc., Nebraska  
Interior Design, Nebraska Coalition for  
Pest Control Association, Nebraska State
- Lindsay, John  
O'Hara, Lindsay & Associates, Inc.
- Lineweber, Ray L.  
United Transportation Union
- Loeffler, Michael T.  
Northern Natural Gas aka Enron Transportation and Storage
- Logsdon, Robert R.  
Cox Nebraska Telcom, LLC
- Lombardi, Richard A.  
American Communications Group, Inc.

Luetkenhaus, Brandon M.

Credit Union League and Affiliates, Nebraska

Mass, Ken E.

AFL-CIO, Nebraska State

Mauk, Daniel S.

Norfolk Area Chamber of Commerce

McBride, David S.

Health Underwriters, National Association of  
Insurance and Financial Advisors, National Association of  
Optometric Association, Nebraska

McGuire, Mark D.

Education Association, Nebraska State

McHugh, Jim

Regional West Health Services

McKenzie, Janis M.

Gifted, Nebraska Association For The  
Independent Colleges & Universities of Nebraska (AICUN), Association of  
Insurance Federation, Nebraska

McNally-Schuller, Lynne

Horsemen's Benevolent & Protective Association

Meek, Randy D.

Brotherhood of Locomotive Engineers, Nebraska State Legislative Board

Meerkatz, Marilyn

Class I's United

Menzel, Elaine

County Officials, Nebraska Association of

Meurrens, Bradley A.

Advocacy Services, Inc., Nebraska

Meyer, Les

Kinder Morgan, Inc.

Mihovk, Donald J.

Chamber of Commerce & Industry, Nebraska

Mikkelsen, Brian

Education Association, Nebraska State

Miller, Amy  
ACLU Nebraska

Mills, Jack D.  
Risk Management Association, Nebraska Intergovernmental

Mischo, Craig  
Bayer Health Care

Mix, Mark A.  
National Right to Work Committee

Moenning, Jessica  
Republican Party, Nebraska

Moors, H. Jack  
3M Traffic Safety Systems  
Cargill/Excel  
City of Lincoln  
Corn Growers Association, Nebraska  
Crow Butte Resources, Inc.  
Johnson & Johnson  
Novartis Pharmaceuticals Corporation  
Syngenta  
Tobacco & Candy Distributors, Nebraska Association of

Moul, Maxine  
Endow Nebraska

Mourad, Greg W.  
National Right to Work Committee

Moylan, James H.  
Beverage Association, Nebraska Licensed  
R.J. Reynolds Tobacco

Mueller, William J.  
Ruth Mueller Robak LLC

Mumgaard, D. Milo  
Appleseed Center for Law in the Public Interest, Nebraska

Munguia, Roberto Fernando  
Burlington Northern Santa Fe

Nabb, Douglas  
Fremont Public Schools

Nantkes, Danielle

Appleseed Center for Law in the Public Interest, Nebraska

Neilan, Perre S.

Realtors Association, Nebraska

Nielsen, Coleen J.

Insurance Information Service, Nebraska

Medco Health Solutions, Inc.

Merck & Company

State Farm Insurance Companies

United Healthcare

Niemann, Nicholas K.

Omaha Chamber of Commerce, Greater

Nolan, Michael

City of Norfolk

Nowka, Trent P.

Cutshall & Associates

Obermier, Duane

Education Association, Nebraska State

Obst, Robert E.

Qwest Communications

O'Hara, Lindsay & Associates, Inc.

Ambulatory Centers, Nebraska Association of Independent

Aquila

Automobile Manufacturers, Alliance of

Blue Cross & Blue Shield of Nebraska

City of Hastings

City of Norfolk

County Judges Association, Nebraska

Endow Nebraska

Finocchio Wine Company, Inc.

First National of Nebraska, Inc.

Hall County Livestock Improvement Association

Housing & Redevelopment Officials, Nebraska Chapter of the National  
Association of

Humanities Council, Nebraska

Kinder Morgan, Inc.

Nebraska Book Company

Nucor Corporation

Omaha Public Power District

Omaha Public Schools

Peru State College Foundation  
Pioneer Hi-Bred International  
Soft Drink Association, Nebraska  
Trial Attorneys, Nebraska Association of  
Winnebago Tribe of Nebraska

O'Hara, Paul V.  
O'Hara, Lindsay & Associates, Inc.

Olhausen, Vaun C.  
Schering-Plough External Affairs, Inc.

Olsen, Keith R.  
Farm Bureau Federation, Nebraska

O'Neal II, John R.  
Advocacy Services, Inc., Nebraska

O'Neill, Jr., Thomas J.  
Independent Colleges & Universities of Nebraska (AICUN), Association  
of

Orton, Leroy  
Irrigation Association, Nebraska State  
Waste Water Assn., Nebraska On-Site  
Well Drillers Association, Nebraska

Othmer, Mark F.  
Iowa/Nebraska Equipment Dealers Association

Otto, James A.  
Restaurant Association, Nebraska  
Retail Federation, Nebraska

Otto, Richard J.  
Alfalfa Dehydraters Association, Nebraska  
Restaurant Association, Nebraska  
Retail Federation, Nebraska

Owen, Rose Marie  
Medco Health Solutions, Inc.

Ozanne, Colleen K.  
State Farm Insurance Companies (NE)

Pack, Mary M.  
Radcliffe, Walter H. of Radcliffe & Associates

Paden, Nicholas

Campbell, Mary M./Campbell & Associates

Pallesen, Jr., Charles M.  
Medical Association, Nebraska

Pallesen, Michael C.  
MidAmerica Management, Inc.

Partington, James W.  
Restaurant Association, Nebraska

Peetz, Natalie  
Omaha Chamber of Commerce, Greater

Pereira, Paul C.  
TAP Pharmaceuticals

Perkins, Gary A.  
Childrens Healthcare Services

Peters, William E.  
Burlington Northern Santa Fe  
Cigar Association of America, Inc.  
Golden Rule Insurance Company

Peterson, Alan E.  
Media of Nebraska, Inc.

Peterson, Patricia Schuett  
Investment Finance Authority, Nebraska

Pierson, Darwin R.  
Oil & Gas Association, Nebraska Independent

Pittman, Jack F.  
Highway Users, Nebraska Coalition of

Plucker, Julia  
Childrens Healthcare Services  
Coast Casinos, Inc.  
Community Alliance, Inc.  
Credit Union League and Affiliates, Nebraska  
Nebraska Schools Activities Associations

Polt, Brendon A.  
Health Care Association, Nebraska

Popken, Kent T.

Qwest Communications

Potter, Cara E.

National Association of Chain Drug Stores

Prenda, Amy

Kissel/E&S Associates, LLC

Preston, James N.

Trucking Association, Nebraska

Ptacek, Patrick J.

Grain and Feed Association, Nebraska

Radcliffe, Walter H. of Radcliffe & Associates

ALLTEL Communications

Broadcasters Association, Nebraska

Cabela's Retail, Inc.

Cable Communications Association, Nebraska

Cemetery Association, Nebraska State

Certified Public Accountants, Nebraska Society of

Coast Casinos, Inc.

Equipment Manufacturers, Association of

Fair Board, Nebraska State

Father Flanagans Boys Home aka Girls and Boys Town

Father Flanagans Boys Home d/b/a Boys Town National Research  
Hospital

Financial Services Coalition, Nebraska

Health Care Association, Nebraska

Home Builders Association, Nebraska State

INTRALOT USA

League of Nebraska Municipalities

Legal Aid of Nebraska

Lincoln Public Schools

Media of Nebraska, Inc.

Medical Center, Nebraska

Motion Picture Association of America

Optometric Association, Nebraska

Property Casualty Insurers Association of America

Public Health Funding, Nebraskans for

Pyrotechnics Association, Nebraska

RACOM Corporation

Realtors Association, Nebraska

State Troopers Association of Nebraska, Inc.

There Otta Be A Law

Tyson Foods, Inc.

University of Nebraska

UST Public Affairs, Inc.

Waste Connections, Inc.

## Wholesale Liquor Distributors Association, Nebraska

Rasmussen, Dennis

AirBoat Association, Nebraska

Auto Dealers Association, Nebraska Independent

Catrala of Nebraska

Class I's United

Iowa/Nebraska Equipment Dealers Association

Kraft Foods North America, Inc. - Altria Corporate Services, Inc.

Land Improvement Contractors Association, Nebraska

LensCrafters

Miller Brewing Company

National Guard Assn. of Nebraska

Petroleum Marketers &amp; Convenience Store Assn., Nebraska

Philip Morris USA, Inc. - Altria Corporate Services, Inc.

Redoutey, Laura J.

Hospital Association, Nebraska

Reid, William S.

Eli Lilly and Company

Reiman, Charlene

Kinder Morgan, Inc.

Rempe, Jay E.

Farm Bureau Federation, Nebraska

Renner, Shawn D.

Media of Nebraska, Inc.

Rex, L. Lynn

League of Nebraska Municipalities

Reynolds, Simera

Mothers Against Drunk Driving, Nebraska

Richards, Thomas

Omaha Public Power District

Riibe, Diane

Project Extra Mile

Riskowski, Alvin

Family Council, Nebraska

Robak, Kim M.

Ruth Mueller Robak LLC

Robertson, Rob J.

Farm Bureau Federation, Nebraska

Roland, Gene

Kinder Morgan, Inc.

Roof, Dale

Takeda Pharmaceuticals America

Rowley, Mitch

Catholic Conference, Nebraska

Rubin, Barry R.

Democratic Party, Nebraska

Ruth Mueller Robak LLC

American Express Travel Related Services, Inc.

Ash Grove Cement Co.

Bankers Association, Heartland Community

Better Nebraska Association

Big Red Lottery Services, Ltd.

Chief Industries, Inc.

Collectors Association, Nebraska

Commercial Property Owners, Nebraska Association of

Court Reporters Association, Nebraska

Cutshall & Associates

Dental Association, Nebraska

District Court Judges Association, Nebraska

Duncan Aviation

Eastern Nebraska Development Council

eBay, Inc.

Electrical Contractors Association, National

Eye Physicians and Surgeons, Nebraska Academy of

First Data Corporation

General Contractors of America, NE Chapter, Associated

Independent Accountants, Nebraska Society of

Joseph's, Inc.

Kearney Area Chamber of Commerce

Kellogg Company

Lamar Advertising Company

Land Title Association, Nebraska

Lincoln Airport Authority

Lyman-Richey Corporation

M/A-COM Private Radio Systems

Machinery Company, Nebraska

MDS Pharma Services (US), Inc.

Methodist Health Systems, Nebraska

Millard Public Schools

MultiState Associates on behalf of Hewlett-Packard Company

MultiState Associates, Inc. on behalf of Caterpillar, Inc.  
Nebraska Interactive  
Nebraska State Bar Association  
Pharmaceutical Research and Manufacturers of America  
Press Association, Nebraska  
S.I.D.s, Nebraska Association For  
Western Wireless Corporation

Ruth, Larry L.  
Ruth Mueller Robak LLC

Ryan, Beth  
Union Pacific Railroad

Sahling-Zart, Shelley R.  
Lincoln Electric System

Scarpello, Sam M.  
Electrical Workers, Nebraska State Council of  
Omaha Building & Construction Trades Council  
Utility Workers Conference, Nebraska State

Schimek, Herbert H.  
Education Association, Nebraska State

Schleppenbach, Greg  
Catholic Conference, Nebraska

Schmit Industries, Inc.  
Ag Processing, Inc.  
Chiropractic Physicians Association, Nebraska  
Husker Ag, LLC  
KAPPA Ethanol, LLC  
Lundeen Inc.  
Southwest Energy

Schmit-Albin, Julie  
Nebraska Right to Life

Sedlacek, Ronald J.  
Bankers Association, Nebraska  
Chamber of Commerce & Industry, Nebraska  
Travelers Express Company, Inc.

Sellentin, Jerry L.  
School Administrators, Nebraska Council of

Setzepfandt, Scott  
HLR Service Corporation

- Sher, Bradley L.  
BryanLGH Health System
- Shultz, Jack L.  
Eli Lilly and Company  
Motorcycle Industry Council, Inc.
- Siefken, Kathy  
Grocery Industry Association, Nebraska
- Simino, Charles G.  
Sprint
- Smith, Jill  
National Organization for Women - Lincoln Chapter
- Smith, Milford L.  
Smith Consulting Service
- Snyder, Patricia  
Health Care Association, Nebraska
- Sommermeier, Mary E.  
League of Nebraska Municipalities
- Spatz, John  
School Boards, Nebraska Association of
- Stading, Donald R.  
Ameritas Life Insurance Corporation
- Stilmock, Gerald M.  
Firefighters Association, Nebraska State Volunteer  
National Federation of Independent Business  
Pharmacists Association, Nebraska
- Stremming, Troy A.  
Ameristar Casinos, Inc.
- Sullivan, J. Scott  
Credit Union League and Affiliates, Nebraska
- Swanson, Heather S.  
Nebraska Friends of Midwives
- Todd, A. Loy, Jr.  
Car & Truck Dealers Association, Nebraska New

- Uhe, Fred J.  
Sarpy County Board of Commissioners
- Ulbrich, Barbara  
State Farm Insurance Companies
- Ullstrom, Galen F.  
Mutual of Omaha Insurance Companies
- Urdahl, Michael B.  
Great Plains Communications
- Varney, Michael  
Farmers Insurance Group
- Vasina, Mark A.  
Nebraskans for Peace, Inc.
- Vickers, Tom  
Community College Association, Nebraska  
Coors Brewing Company  
Educational Lands and Funds, Board of  
Nurses Association, Nebraska  
Propane Gas Association, Nebraska  
Westside Community Schools
- Vodvarka, Dan  
Certified Public Accountants, Nebraska Society of
- Wagner, Connie  
Licensed Practical Nurse Association of Nebraska
- Walker, Steven H.  
Norris Public Power District
- Warth, Terry  
Nebraska Public Power District
- Weber, Dale  
Veterans & Social Societies, Inc., Nebraska Council of Fraternal
- Weber, Rocky  
Cooperative Council, Nebraska
- Wickman, Barbara J.  
Metro Omaha Builders Association
- Wightman, Anna Castner  
First National of Nebraska, Inc.

Williams, David M.

Ameritas Life Insurance Corporation

Wimmer, J. Kent

Western Sugar Company (CO)

Wininger, Dwight

Rural Telecommunications Coalition, Nebraska

Winston, Ken

Library Association, Nebraska

Nebraskans Against the Death Penalty

Sierra Club, Nebraska

Withem, Ron

University of Nebraska

Wood, Keith

National Rifle Association Institute for Legislative Action

Wurster, Donald F.

National Indemnity Company

Yost, Kurt T.

Bankers, Nebraska Independent Community

Central Nebraska Public Power & Irrigation District

Midwest Check Cashiers, Inc.

Young, Philip M.

Philip Morris USA, Inc. - Altria Corporate Services, Inc.

Zaenglein, Norbert

Autobody Association, Nebraska

Zoucha, Terry E.

ProCare 3

Zumwinkle, Mike

Cargill/Excel

#### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Janssen asked unanimous consent to have his name added as cointroducer to LB 28. No objections. So ordered.

Senator Burling asked unanimous consent to have his name added as cointroducer to LB 206. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 8 Girl Scouts and sponsors from Troop 2922, Omaha; and Senator Aguilar's wife, Susan Aguilar, from Grand Island, and Ginger TenBensel from Hastings.

**ADJOURNMENT**

At 12:21 p.m., on a motion by Senator McDonald, the Legislature adjourned until 11:00 a.m., Tuesday, January 11, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**FIFTH DAY - JANUARY 11, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, January 11, 2005

**PRAYER**

The prayer was offered by Senator Schrock.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 11:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brashear, Landis, and Mines who were excused.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fourth day was approved.

**MOTION - Adopt Temporary Rules**

Senator Hudkins moved that the rules, as now in our possession, be adopted for today only, Tuesday, January 11, 2005.

The motion prevailed.

**REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB 135	Urban Affairs
LB 136	Transportation and Telecommunications
LB 137	Natural Resources
LB 138	Education
LB 139	Natural Resources
LB 140	Natural Resources
LB 141	Education
LB 142	Education
LB 143	Judiciary

LB 144	Nebraska Retirement Systems
LB 145	Education
LB 146	Education
LB 147	Revenue
LB 148	Judiciary
LB 149	Banking, Commerce and Insurance
LB 150	Agriculture
LB 151	Judiciary
LB 152	Judiciary
LB 153	Natural Resources
LB 154	Natural Resources
LB 155	Revenue
LB 156	Transportation and Telecommunications
LB 157	Transportation and Telecommunications
LB 158	Health and Human Services
LB 159	Revenue
LB 160	Executive Board
LB 161	Urban Affairs
LB 162	Natural Resources
LB 163	Urban Affairs
LB 164	Health and Human Services
LB 165	Nebraska Retirement Systems
LB 166	Business and Labor
LB 167	Government, Military and Veterans Affairs
LB 168	Judiciary
LB 169	Urban Affairs
LB 170	Banking, Commerce and Insurance
LB 171	Banking, Commerce and Insurance
LB 172	Revenue
LB 173	Judiciary
LB 174	Health and Human Services
LB 175	Health and Human Services
LB 176	Health and Human Services
LB 177	Health and Human Services
LB 178	Judiciary
LB 179	Judiciary
LB 181	Judiciary
LB 182	Health and Human Services
LB 183	Appropriations
LB 184	Appropriations
LB 185	Transportation and Telecommunications
LB 186	Urban Affairs
LB 187	Government, Military and Veterans Affairs
LB 188	Government, Military and Veterans Affairs
LB 189	Natural Resources
LB 190	Natural Resources
LB 191	Natural Resources
LB 192	Business and Labor
LB 193	Health and Human Services

LB 194	Judiciary
LB 195	Appropriations
LB 196	Education
LB 197	Education
LB 198	Education
LB 199	Education
LB 200	Judiciary
LB 201	General Affairs
LB 202	Transportation and Telecommunications
LB 203	Health and Human Services
LB 204	Health and Human Services
LB 205	Health and Human Services
LB 206	Judiciary
LB 207	Judiciary
LB 208	Appropriations
LB 209	General Affairs
LB 210	General Affairs
LB 211	General Affairs
LB 212	Banking, Commerce and Insurance
LB 213	Judiciary
LB 214	Government, Military and Veterans Affairs
LB 215	Nebraska Retirement Systems
LB 216	Revenue
LB 217	Government, Military and Veterans Affairs
LB 218	Judiciary
LB 219	Business and Labor
LB 220	Transportation and Telecommunications
LB 221	Transportation and Telecommunications
LB 222	Agriculture
LB 223	Education
LB 224	Revenue
LB 225	Natural Resources
LB 226	Natural Resources
LB 227	Appropriations
LB 228	Revenue
LB 229	Education
LB 230	Business and Labor
LB 231	Revenue
LB 232	Government, Military and Veterans Affairs

Allan, Tamas R. - Nebraska State Fair Board - Agriculture

Augustine, Samuel - State Board of Health - Health and Human Services

Baumgartner, Shawn J. - Board of Emergency Medical Services - Health and Human Services

Benesch, Kevin - Child Abuse Prevention Fund Board - Health and Human Services

Blank, Denis - Public Employees Retirement Board - Nebraska Retirement Systems

Boyle, Anne - Nebraska Transit and Rail Advisory Council - Transportation and Telecommunications

Brewster, Charles - Crime Victim's Reparations Committee - Judiciary

Brodersen, Charles J. "Tod" - Nebraska Ethanol Board - Natural Resources

Bromm, Vicki P. - Nebraska Arts Council - General Affairs

Brueggeman, William - Crime Victim's Reparations Committee - Judiciary

Brush, William - Rural Health Advisory Commission - Health and Human Services

Burke, Jerrod - Game and Parks Commission - Natural Resources

Carpenter, Stan - Nebraska Educational Telecommunications Commission - Education

Catalan, David - Nebraska Arts Council - General Affairs

Cullan, David J. - Commission of Industrial Relations - Business and Labor

Danon, Steven - State Emergency Response Commission - Government, Military and Veterans Affairs

DeLiberty, Richard - Behavioral Health Administrator - Health and Human Services

DiMartino, Thomas - Boiler Safety Code Advisory Board - Business and Labor

Discoe, Edward - State Board of Health - Health and Human Services

Dunn, Robert - Board of Emergency Medical Services - Health and Human Services

Eisenhauer, Donald - State Emergency Response Commission - Government, Military and Veterans Affairs

Eitel, Duane - Nebraska Transit and Rail Advisory Council - Transportation and Telecommunications

Elwell, Glenn - Public Employees Retirement Board - Nebraska Retirement Systems

Fattig, Martin L. - Rural Health Advisory Commission - Health and Human Services

Figard, Roger - Nebraska Transit and Rail Advisory Council -  
Transportation and Telecommunications

George, Riley H. - State Electrical Board - General Affairs

Gilfillan, David - Nebraska Transit and Rail Advisory Council -  
Transportation and Telecommunications

Gordon, James E. - Foster Care Review Board - Health and Human Services

Harbaugh, Mary - Nebraska Educational Telecommunications Commission  
- Education

Harris, Marilyn - Coordinating Commission for Postsecondary Education -  
Education

Heider, Susan - Nebraska Information Technology Commission -  
Transportation and Telecommunications

Hughes, Rommie J. - Board of Emergency Medical Services - Health and  
Human Services

Hull, Jess - Nebraska Motor Vehicle Industry Licensing Board -  
Transportation and Telecommunications

Janssen, Georgia - Nebraska Transit and Rail Advisory Council -  
Transportation and Telecommunications

Jenkins, James J. - Nebraska Ethanol Board - Natural Resources

Kasl, Martin - Nebraska Boiler Safety Code Advisory Board - Business and  
Labor

Keller, M. Jane - Board of Educational Lands and Funds - Education

Kohtz, Donald - Nebraska Power Review Board - Natural Resources

Korell, Roger - Natural Resources Commission - Natural Resources

Kunze, Ken - Nebraska Power Review Board - Natural Resources

Lans, Benjamin B. - Board of Emergency Medical Services - Health and  
Human Services

Lazure, Linda - State Board of Health - Health and Human Services

Lewis, Stephen - Board of Trustees of the Nebraska State Colleges -  
Education

List, Pamela H. - Rural Health Advisory Commission - Health and Human Services

MacTaggart, Stuart - Department of Aeronautics - Government, Military and Veterans Affairs

Maddux, John - Nebraska Investment Council - Nebraska Retirement Systems

Madsen, Wayne - Natural Resources Commission - Natural Resources

McBeth, Steve - Nebraska Transit and Rail Advisory Council - Transportation and Telecommunications

McCollister, Steve - Accountability and Disclosure Commission - Government, Military and Veterans Affairs

McGinn, Joellen - Foster Care Review Board - Health and Human Services

Mullen, Paul - Nebraska Transit and Rail Advisory Council - Transportation and Telecommunications

Mulligan, Thomas - Nebraska Transit and Rail Advisory Council - Transportation and Telecommunications

Mulligan-Witt, Michele - Rural Health Advisory Commission - Health and Human Services

Munguia, Roberto - Nebraska Transit and Rail Advisory Council - Transportation and Telecommunications

Nelson, Richard P. - Department of Health and Human Services Finance and Support - Health and Human Services

Newman, Murray H. - Nebraska Arts Council - General Affairs

Ourada, Tom F. - State Electrical Board - General Affairs

Peterson, Carter - Board of Trustees of the Nebraska State Colleges - Education

Rasmussen, Clinton - Board of Emergency Medical Services - Health and Human Services

Raymond, Richard - Department of Health and Human Services Regulation and Licensure - Health and Human Services

Ruegg, Gary - Nebraska Transit and Rail Advisory Council - Transportation

and Telecommunications

Salansky, Paul - State Board of Health - Health and Human Services

Salumbides, Germelina - Nebraska Arts Council - General Affairs

Schenck, Gerald - Foster Care Review Board - Health and Human Services

Schiefen, James C. - State Board of Health - Health and Human Services

Seever, Samuel - State Personnel Board - Government, Military and Veterans Affairs

Seyfarth, John - Foster Care Review Board - Health and Human Services

Shepard, Mark - Public Employees Retirement Board - Nebraska Retirement Systems

Strand, James W. - Coordinating Commission for Postsecondary Education - Education

Taylor, Jr., Donald - Rural Health Advisory Commission - Health and Human Services

Trotter, Jerry P. (Pat) - Environmental Quality Council - Natural Resources

Tulipana, Peter - Child Abuse Prevention Fund Board - Health and Human Services

Van Marter, Jr., Jim - Natural Resources Commission - Natural Resources

Vierk, Richard J. - Nebraska Arts Council - General Affairs

Westcott, Michael L. - Board of Emergency Medical Services - Health and Human Services

Westerman, Gary - State Board of Health - Health and Human Services

Woods, Donna - Nebraska Arts Council - General Affairs

Ziebarth, James J. - Game and Parks Commission - Natural Resources

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

**NOTICE OF COMMITTEE HEARINGS**  
**Banking, Commerce and Insurance**  
 Room 1507

LB 59	Tuesday, January 18, 2005	1:30 p.m.
LB 88	Tuesday, January 18, 2005	1:30 p.m.
LB 118	Tuesday, January 18, 2005	1:30 p.m.
LB 119	Tuesday, January 18, 2005	1:30 p.m.

(Signed) Mick Mines, Chairperson

**Transportation and Telecommunications**  
 Room 1113

LB 78	Tuesday, January 18, 2005	1:30 p.m.
LB 83	Tuesday, January 18, 2005	1:30 p.m.
LB 80	Tuesday, January 18, 2005	1:30 p.m.
LB 79	Tuesday, January 18, 2005	1:30 p.m.
LB 24	Tuesday, January 18, 2005	1:30 p.m.
LB 82	Tuesday, January 18, 2005	1:30 p.m.
LB 77	Tuesday, January 18, 2005	1:30 p.m.

(Signed) Tom Baker, Chairperson

**ANNOUNCEMENTS**

The Transportation and Telecommunications Committee elected Senator Smith as Vice Chairperson.

The Appropriations Committee elected Senator Kruse as Vice Chairperson.

The Health and Human Services Committee elected Senator Byars as Vice Chairperson.

**BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 301.** Introduced by Health and Human Services Committee: Jensen, 20, Chairperson; Byars, 30; Cunningham, 40; Erdman, 47; Howard, 9; Johnson, 37; Stuthman, 22.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 68-156, 68-1017.02, 68-1020 to 68-1021.01, 68-1037, 68-1048, 68-1604, 71-147, 71-1,104.01, 71-501.02, 71-503.01, 71-505, 71-519 to 71-523, 71-529, 71-601, 71-601.01, 71-605, 71-613, 71-640.01, 71-642, 71-649, 71-701, 71-703, 71-705 to 71-707, 71-1628.05 to 71-1628.07, 71-1913.01 to 71-1913.03, 71-2081, 71-3503, 71-3524, 71-5177, 71-5647, 71-5649, 71-5653, 71-5655, 71-5714, 71-7617 to 71-7622, 79-217 to

79-219, 81-656, and 81-6,101, Reissue Revised Statutes of Nebraska, and sections 71-1,155, 81-3004, and 81-3102, Revised Statutes Supplement, 2004; to change and eliminate provisions relating to reports, food stamp and medical assistance benefits, homeless shelter assistance, death certificates, newborn screening tests, temporary veterinarian licenses, and emergency medical services; to transfer responsibility for the Women's Health Initiative of Nebraska, the Office of Rural Health, and the tobacco-related public health program; to name the Vital Statistics Act; to change and provide penalties; to redefine transuranic waste; to eliminate obsolete provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 68-1064, 68-1716, and 71-1,161, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**LEGISLATIVE BILL 302.** Introduced by Price, 26.

A BILL FOR AN ACT relating to cities of the primary class; to amend section 15-201, Reissue Revised Statutes of Nebraska; to grant powers relating to trees; and to repeal the original section.

**LEGISLATIVE BILL 303.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to postsecondary education; to amend sections 85-2001, 85-2002, and 85-2004 to 85-2008, Revised Statutes Supplement, 2004; to change provisions of the Community Scholarship Foundation Program Act; and to repeal the original sections.

**LEGISLATIVE BILL 304.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to education; to amend section 77-3442, Revised Statutes Supplement, 2004; to adopt the Education Buildings Review Commission Act; to change provisions relating to a levy limitation; and to repeal the original section.

**LEGISLATIVE BILL 305.** Introduced by Byars, 30.

A BILL FOR AN ACT relating to public health and welfare; to amend section 71-5707, Revised Statutes Supplement, 2004; to prohibit use of tobacco products in educational institutions; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 306.** Introduced by Byars, 30.

A BILL FOR AN ACT relating to the Uniform Licensing Law; to amend section 71-168, Reissue Revised Statutes of Nebraska, and section 71-101, Revised Statutes Supplement, 2004; to provide for fingerprinting and criminal background checks; to change requirements for reporting certain occurrences; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 307.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to children; to create the Task Force on Safe Havens for Abandoned Infants; to provide duties; and to declare an emergency.

**LEGISLATIVE BILL 308.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to personal property; to amend section 25-21,194, Reissue Revised Statutes of Nebraska; to change and provide damages for shoplifting and conversion actions; and to repeal the original section.

**LEGISLATIVE BILL 309.** Introduced by Connealy, 16.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2715.07, Reissue Revised Statutes of Nebraska; to create an investment tax credit; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 310.** Introduced by Connealy, 16.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 44-6408, 60-301, 60-501, 60-509, and 60-534, Reissue Revised Statutes of Nebraska; to change liability insurance and financial responsibility requirements; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 311.** Introduced by Byars, 30; Cunningham, 40; Janssen, 15; Jensen, 20; Johnson, 37; Stuthman, 22.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701, Revised Statutes Supplement, 2004; to provide requirements for retail cigarette dealers relating to sales tax; to provide duties for the Department of Revenue; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 312.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to the Employment and Investment Growth Act; to amend sections 49-801.01, 77-4101, 77-4104, 77-4105, 77-4106, 77-4110, and 77-4112, Reissue Revised Statutes of Nebraska, and section 77-4103, Revised Statutes Supplement, 2004; to change investment and employment requirements as prescribed; to redefine a term; to provide tax incentives; to require disclosure of certain information; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 313.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-27,188, Reissue Revised Statutes of Nebraska; to change tax incentive

provisions; and to repeal the original section.

**LEGISLATIVE BILL 314.** Introduced by Howard, 9; Aguilar, 35; Byars, 30; Connealy, 16; Cornett, 45; Cunningham, 40; Flood, 19; Kopplin, 3; McDonald, 41; Preister, 5; Raikes, 25; Redfield, 12; Schrock, 38; Stuthman, 22; Thompson, 14.

A BILL FOR AN ACT relating to state officers; to amend section 84-108.01, Reissue Revised Statutes of Nebraska; to declare Nebraska Heritage Week; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 315.** Introduced by Howard, 9; Aguilar, 35; Cornett, 45; Kruse, 13; Preister, 5.

A BILL FOR AN ACT relating to conveyances; to require a notice regarding registered sex offender information as prescribed.

**LEGISLATIVE BILL 316.** Introduced by Howard, 9.

A BILL FOR AN ACT relating to computers; to adopt the Consumer Protection Against Computer Spyware Act.

**LEGISLATIVE BILL 317.** Introduced by Kremer, 34; Baker, 44; Burling, 33; Cunningham, 40; Erdman, 47; Fischer, 43; Dw. Pedersen, 39; Preister, 5; Schrock, 38; Smith, 48; Wehrbein, 2.

A BILL FOR AN ACT relating to agriculture; to amend section 2-2701.01, Reissue Revised Statutes of Nebraska; to change provisions relating to tractor testing; and to repeal the original section.

**LEGISLATIVE BILL 318.** Introduced by Johnson, 37.

A BILL FOR AN ACT relating to wholesale drug distributors; to amend sections 71-147, 71-168, 71-168.02, 71-1,198, 71-1,339, and 71-2610.01, Reissue Revised Statutes of Nebraska, and section 71-162, Revised Statutes Supplement, 2004; to adopt the Wholesale Licensure and Prescription Medication Integrity Act; to eliminate the Wholesale Drug Distributor Licensing Act; to harmonize provisions; to repeal the original sections; and to outright repeal sections 71-7401 to 71-7426, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 319.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to the Public Service Commission; to amend sections 71-4608 and 75-156, Reissue Revised Statutes of Nebraska; to change civil penalties provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 320.** Introduced by Chambers, 11.

A BILL FOR AN ACT relating to the Nebraska Correctional Health Care Services Act; to amend section 83-4,161, Revised Statutes Supplement, 2004; to change provisions relating to screening for communicable diseases; and to repeal the original section.

**LEGISLATIVE BILL 321.** Introduced by Schimek, 27.

A BILL FOR AN ACT relating to state personnel; to amend section 81-1316, Revised Statutes Supplement, 2004; to exempt the chief executive officer of facilities operated by the Department of Correctional Services and the medical director of the department from the State Personnel System; and to repeal the original section.

**LEGISLATIVE BILL 322.** Introduced by Schimek, 27; Aguilar, 35; Bourne, 8; Combs, 32; Connealy, 16; Howard, 9; Johnson, 37; Kruse, 13; Dw. Pedersen, 39; Price, 26; Synowiecki, 7; Thompson, 14.

A BILL FOR AN ACT relating to domestic relations; to amend sections 42-347, 42-364, 43-2,113, and 43-512.15, Reissue Revised Statutes of Nebraska; to define terms; to change and provide provisions relating to child custody and visitation determinations and modifications; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

**LEGISLATIVE BILL 323.** Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Winery and Grape Producers Promotional Fund.

**LEGISLATIVE BILL 324.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-202, Reissue Revised Statutes of Nebraska; to define public purpose for property tax exemption purposes; and to repeal the original section.

**LEGISLATIVE BILL 325.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to ethanol; to amend sections 2-3622, 2-3623, 2-3633, and 66-1345.02, Reissue Revised Statutes of Nebraska, and sections 66-726, 66-1333, 66-1345, and 66-1345.01, Revised Statutes Supplement, 2004; to change fees as prescribed; to eliminate the Nebraska Ethanol Board and a fund; to transfer powers and duties; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 2-3627 and 66-1335 to 66-1342, Reissue Revised Statutes of Nebraska, and section 66-1334, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 326.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend section 79-458, Reissue Revised Statutes of Nebraska to change provisions relating to freeholders' petitions; and to repeal the original section.

**LEGISLATIVE BILL 327.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend section 79-458, Reissue Revised Statutes of Nebraska; to change provisions relating to freeholder petitions; and to repeal the original section.

**LEGISLATIVE BILL 328.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to the University of Nebraska; to amend section 85-106, Reissue Revised Statutes of Nebraska; to authorize a change in the retirement contribution rate; and to repeal the original section.

**LEGISLATIVE BILL 329.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to retirement; to amend sections 79-514 and 79-902, Reissue Revised Statutes of Nebraska; to authorize certain contributions related to school plans; to redefine a term; and to repeal the original sections.

**LEGISLATIVE BILL 330.** Introduced by Louden, 49; Burling, 33; Cunningham, 40; Erdman, 47; Fischer, 43; Kremer, 34; McDonald, 41; Wehrbein, 2.

A BILL FOR AN ACT relating to livestock; to amend section 54-199, Reissue Revised Statutes of Nebraska; to change provisions relating to livestock brands; and to repeal the original section.

**LEGISLATIVE BILL 331.** Introduced by McDonald, 41; Aguilar, 35; Combs, 32; Flood, 19; Jensen, 20; Price, 26; Stuthman, 22.

A BILL FOR AN ACT relating to health care; to amend sections 71-2422, 71-2423, 71-2425, 71-2426, 71-2427, and 71-2429, Reissue Revised Statutes of Nebraska; to establish a registry for the cancer drug repository program; and to repeal the original sections.

**LEGISLATIVE BILL 332.** Introduced by McDonald, 41; Kruse, 13; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to the Nebraska Behavioral Health Services Act; to amend sections 71-805 and 71-817, Revised Statutes Supplement, 2004; to change provisions relating to problem gambling; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 333.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to the Motor Vehicle Operator's License Act; to amend sections 60-4,120.01 and 60-4,124, Reissue Revised Statutes of Nebraska; to change provisions relating to holders of provisional operator's permits and holders of school permits; and to repeal the original sections.

**LEGISLATIVE BILL 334.** Introduced by Janssen, 15; Stuhr, 24.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 13-208, Reissue Revised Statutes of Nebraska, and sections 13-203, 13-204, 13-206, and 13-207, Revised Statutes Supplement, 2004; to change tax credit provisions of the Community Development Assistance Act; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 335.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to the Industrial Ground Water Regulatory Act; to amend sections 46-677, 46-686, 46-688, and 46-690, Reissue Revised Statutes of Nebraska; to provide an exemption as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 336.** Introduced by Natural Resources Committee: Schrock, 38, Chairperson; Hudkins, 21; Kopplin, 3; Kremer, 34; Loudon, 49; McDonald, 41; Smith, 48; Stuhr, 24; and Engel, 17.

A BILL FOR AN ACT relating to electricity; to adopt the Public Entities Mandated Project Charges Act; and to provide severability.

**LEGISLATIVE BILL 337.** Introduced by Janssen, 15; Connealy, 16; Kopplin, 3; Langemeier, 23; Dw. Pedersen, 39; Wehrbein, 2.

A BILL FOR AN ACT relating to political subdivisions; to amend section 13-2809, Revised Statutes Supplement, 2004; to change provisions relating to municipal counties; and to repeal the original section.

**LEGISLATIVE BILL 338.** Introduced by Smith, 48; Brown, 6; Erdman, 47.

A BILL FOR AN ACT relating to the Nebraska Certified Nurse Midwifery Practice Act; to amend sections 44-513, 71-604, 71-1740, 71-1743, 71-1747, 71-1748, 71-1749, 71-1752, 71-1753, 71-1755, 71-1757, and 71-2048.01, Reissue Revised Statutes of Nebraska; to provide for independent practice; to redefine terms and eliminate definitions; to provide for insurance reimbursement and clinical privileges; to harmonize provisions; to repeal the original sections; and to outright repeal sections 71-1746, 71-1750, 71-1751, 71-1754, and 71-1763, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 339.** Introduced by Smith, 48; Erdman, 47.

A BILL FOR AN ACT relating to midwifery practice; to amend sections 71-1,103, 71-604, and 71-1405, Reissue Revised Statutes of Nebraska, and sections 25-21,188.02, 71-101, 71-102, 71-107, 71-110, 71-112, 71-113, 71-116, and 71-162, Revised Statutes Supplement, 2004; to adopt the Licensed Midwifery Practice Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 340.** Introduced by Smith, 48.

A BILL FOR AN ACT relating to public power districts; to amend sections 32-512, 70-610, 70-619, and 70-621, Reissue Revised Statutes of Nebraska; to change eligibility requirements for the board of directors of certain districts; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 341.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to telecommunications; to amend section 86-463, Revised Statutes Supplement, 2004; to change provisions relating to the Enhanced Wireless 911 Fund; and to repeal the original section.

**LEGISLATIVE BILL 342.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to natural resources; to amend section 2-1569, Reissue Revised Statutes of Nebraska, and section 2-1568, Revised Statutes Supplement, 2004; to eliminate a technical advisory committee; to harmonize provisions; to repeal the original sections; and to outright repeal section 2-1570, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 343.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Nebraska Public Safety Wireless Communication System Act; to amend sections 86-401, 86-410, 86-414, 86-415, 86-418, 86-516, 86-543, and 86-572, Revised Statutes Supplement, 2004; to eliminate the alliance and the Public Safety Wireless Communication Advisory Board; to harmonize provisions; to repeal the original sections; to outright repeal sections 86-405, 86-406, 86-411 to 86-413, and 86-419, Revised Statutes Supplement, 2004; and to declare an emergency.

**LEGISLATIVE BILL 344.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to telecommunications; to amend sections 86-101, 86-103, 86-124, and 86-125, Revised Statutes Supplement, 2004; to give the Public Service Commission jurisdiction over certain aspects of wireless telecommunications service and wireless carriers; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 345.** Introduced by Brown, 6.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-521 and 28-523, Reissue Revised Statutes of Nebraska; to change provisions relating to criminal trespass and littering; to provide penalties; and to repeal the original sections.

**LEGISLATIVE BILL 346.** Introduced by Agriculture Committee: Kremer, 34, Chairperson; Burling, 33; Cunningham, 40; Erdman, 47; Fischer, 43; Preister, 5; Wehrbein, 2.

A BILL FOR AN ACT relating to agriculture; to amend sections 77-2715.07, 77-5201, 77-5203, 77-5208, 77-5209, and 77-5211 to 77-5213, Reissue Revised Statutes of Nebraska; to change provisions of the Beginning Farmer Tax Credit Act; to provide a tax credit; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 347.** Introduced by Bourne, 8; Howard, 9.

A BILL FOR AN ACT relating to schools; to amend sections 79-232, 79-237, and 79-238, Reissue Revised Statutes of Nebraska; to provide for socioeconomic integration plans and standards relating to the enrollment option program; and to repeal the original sections.

**LEGISLATIVE BILL 348.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to courts; to amend section 25-1140.09, Reissue Revised Statutes of Nebraska; to change provisions relating to bills of exceptions; to provide duties; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 349.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to courts; to amend section 24-301.02, Revised Statutes Supplement, 2004; to reallocate district court judgeships; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 350.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to school funding; to amend sections 79-214, 79-528, 79-1003, and 79-1007.01, Reissue Revised Statutes of Nebraska, and sections 77-3442 and 79-1028, Revised Statutes Supplement, 2004; to change provisions relating to levy limitations and reports; to define and redefine terms; to permit districts to exceed the applicable allowable growth rate as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 351.** Introduced by Preister, 5.

A BILL FOR AN ACT relating to the Environmental Quality Council; to amend section 81-1503, Reissue Revised Statutes of Nebraska; to change membership provisions; and to repeal the original section.

**LEGISLATIVE BILL 352.** Introduced by Preister, 5.

A BILL FOR AN ACT relating to community colleges; to provide for inapplicability of certain employment rights; and to provide a duty for the Revisor of Statutes.

**LEGISLATIVE BILL 353.** Introduced by Preister, 5.

A BILL FOR AN ACT relating to community colleges; to amend section 85-1517, Reissue Revised Statutes of Nebraska, and section 77-3442, Revised Statutes Supplement, 2004; to change property tax levy provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 354.** Introduced by Preister, 5.

A BILL FOR AN ACT relating to labor; to amend section 48-217, Reissue Revised Statutes of Nebraska; to provide a service fee for employees who are not members of certain labor organizations; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 355.** Introduced by Janssen, 15; Connealy, 16.

A BILL FOR AN ACT relating to cemeteries; to provide for the transfer of cemetery ownership from cemetery associations to cities and villages.

**LEGISLATIVE BILL 356.** Introduced by Janssen, 15.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 13-518 and 77-3442, Revised Statutes Supplement, 2004; to redefine a term; to change levy limitations for cities, villages, and counties; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 357.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend sections 79-4,108 and 79-1010, Reissue Revised Statutes of Nebraska; to change provisions relating to unified systems; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 358.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-3442, Revised Statutes Supplement, 2004; to change tax levy provisions

relating to payment of judgments against unified school systems; and to repeal the original section.

**LEGISLATIVE BILL 359.** Introduced by Kremer, 34.

A BILL FOR AN ACT relating to the Department of Natural Resources; to amend section 61-201, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to qualifications of the director; and to repeal the original section.

**LEGISLATIVE BILL 360.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-507, Reissue Revised Statutes of Nebraska; to change provisions relating to burglary; and to repeal the original section.

**LEGISLATIVE BILL 361.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to county court; to amend section 24-517, Revised Statutes Supplement, 2004; to change jurisdictional provisions; and to repeal the original section.

**LEGISLATIVE BILL 362.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-504, Reissue Revised Statutes of Nebraska; to change procedures relating to felony complaints; and to repeal the original section.

**LEGISLATIVE BILL 363.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-201, Revised Statutes Supplement, 2004; to change penalty provisions for criminal attempt; and to repeal the original section.

**LEGISLATIVE BILL 364.** Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Erdman, 47; D. Pederson, 42; Price, 26; Synowiecki, 7.

A BILL FOR AN ACT relating to school retirement; to amend sections 79-978, 79-990, 79-991, 79-992, and 79-9,101, Reissue Revised Statutes of Nebraska; to redefine terms; to change calculations as prescribed; to change provisions relating to prior service credit; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 365.** Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Erdman, 47; D. Pederson, 42; Price, 26; Synowiecki, 7.

A BILL FOR AN ACT relating to retirement; to amend section 84-1501,

Revised Statutes Supplement, 2004; to change provisions relating to membership on the Public Employees Retirement Board; and to repeal the original section.

**LEGISLATIVE BILL 366.** Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Erdman, 47; D. Pederson, 42; Price, 26; Synowiecki, 7.

A BILL FOR AN ACT relating to retirement; to amend sections 23-2306, 84-1307, and 84-1308, Revised Statutes Supplement, 2004; to change membership provisions for the state employees and county employees retirement systems; to change the contribution rate for the state employees retirement system; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 367.** Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Erdman, 47; D. Pederson, 42; Price, 26; Synowiecki, 7.

A BILL FOR AN ACT relating to retirement; to amend sections 23-2308 and 24-703, Revised Statutes Supplement, 2004; to authorize and change provisions relating to late payment fees; and to repeal the original sections.

**LEGISLATIVE BILL 368.** Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Erdman, 47; D. Pederson, 42; Price, 26; Synowiecki, 7.

A BILL FOR AN ACT relating to retirement; to amend section 79-958, Reissue Revised Statutes of Nebraska; to change employee contributions to the School Retirement Fund; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 369.** Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Erdman, 47; D. Pederson, 42; Price, 26; Synowiecki, 7.

A BILL FOR AN ACT relating to retirement; to amend section 24-703, Revised Statutes Supplement, 2004; to change contributions by judges as prescribed; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 370.** Introduced by Combs, 32; Byars, 30; Connealy, 16; Janssen, 15; Kruse, 13; Dw. Pedersen, 39; D. Pederson, 42; Preister, 5; Price, 26; Schimek, 27; Schrock, 38.

A BILL FOR AN ACT relating to public health and welfare; to provide for colorectal cancer screenings as prescribed.

**LEGISLATIVE BILL 371.** Introduced by Combs, 32; Flood, 19; Hudkins, 21; Kruse, 13; Loudon, 49.

A BILL FOR AN ACT relating to revenue; to amend sections 77-3501.01 and 77-3505.02, Reissue Revised Statutes of Nebraska, and section 77-3506.02, Revised Statutes Supplement, 2004; to change provisions relating to homestead exemptions; and to repeal the original sections.

**LEGISLATIVE BILL 372.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to public utilities; to amend sections 14-2110 and 14-2147, Reissue Revised Statutes of Nebraska, and sections 14-2109 and 14-2146, Revised Statutes Supplement, 2004; to replace a term; and to repeal the original sections.

**LEGISLATIVE BILL 373.** Introduced by Bourne, 8; Schimek, 27.

A BILL FOR AN ACT relating to the Administrative Procedure Act; to amend sections 84-907.06, 84-907.07, and 84-920, Reissue Revised Statutes of Nebraska; to change provisions relating to the act; to provide for legislative review of rules and regulations as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 374.** Introduced by Kruse, 13; Byars, 30; Kopplin, 3; Price, 26; Schrock, 38; Stuhr, 24.

A BILL FOR AN ACT relating to state government; to amend section 84-1604, Reissue Revised Statutes of Nebraska; to change provisions relating to eligibility for state insurance benefits; and to repeal the original section.

**LEGISLATIVE BILL 375.** Introduced by Kruse, 13; Combs, 32; Cornett, 45; Howard, 9; Kopplin, 3; Price, 26; Wehrbein, 2.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 44-6408, 60-301, 60-501, 60-509, and 60-534, Reissue Revised Statutes of Nebraska; to change liability insurance and financial responsibility requirements; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 376.** Introduced by Kruse, 13; Hudkins, 21; McDonald, 41; Price, 26.

A BILL FOR AN ACT relating to appropriations; to state intent relating to behavioral health care services; to define terms; and to require reports to the Appropriations Committee and others by providers and the Nebraska Health and Human Services System.

**LEGISLATIVE BILL 377.** Introduced by Kruse, 13; Brown, 6; Burling, 33; Combs, 32; Engel, 17; Friend, 10; Howard, 9; Hudkins, 21; Loudon, 49; McDonald, 41; Pahls, 31; Price, 26; Redfield, 12; Schimek, 27; Smith, 48.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-308 and 28-310, Reissue Revised Statutes of Nebraska; to redefine assault in the first and third degrees; to prohibit assault by AIDS or HIV as prescribed; to provide penalties; to define terms; and to repeal the original sections.

**LEGISLATIVE BILL 378.** Introduced by Howard, 9; Beutler, 28; Bourne, 8; Connealy, 16; Kopplin, 3; Kruse, 13; Preister, 5; Price, 26.

A BILL FOR AN ACT relating to schools; to create and provide duties for the Commission on School Finance; and to provide a duty for the Legislature.

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 11CA.** Introduced by Executive Board: Engel, 17, Chairperson; Beutler, 28; Chambers, 11; McDonald, 41; Stuthman, 22; and Janssen, 15.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article IV, section 1:

IV-1 The executive officers of the state shall be the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, and the heads of such other executive departments as set forth herein or as may be established by law. The Legislature may provide for the placing of the above named officers as heads over such departments of government as it may by law establish.

The Governor, Lieutenant Governor, Attorney General, Secretary of State, Auditor of Public Accounts, and State Treasurer shall be chosen at the general election held in November 1974, and in each alternate even-numbered year thereafter, for a term of four years and until their successors shall be elected and qualified.

Each candidate for Governor shall select a person to be the candidate for Lieutenant Governor on the general election ballot. In the general election one vote shall be cast jointly for the candidates for Governor and Lieutenant Governor. The Governor shall be ineligible to the office of Governor for four years next after the expiration of two consecutive terms for which he or she was elected.

The records, books, and papers of all executive officers shall be kept at the seat of government. Executive officers shall reside within the State of Nebraska during their respective terms of office. Officers in the executive department of the state shall perform such duties as may be provided by law.

The heads of all executive departments established by law, other than those to be elected as provided herein, shall be appointed by the Governor,

with the consent of a majority of all members elected to the Legislature, but officers so appointed may be removed by the Governor. Subject to the provisions of this Constitution and as prescribed by the Legislature, the heads of the various executive or civil departments, including those to be elected as provided in this section, shall have power to appoint and remove all subordinate employees in their respective departments.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to authorize the Legislature to prescribe the manner of appointment and removal of subordinate employees of executive or civil departments.

For

Against.

Referred to the Reference Committee.

#### **LEGISLATIVE RESOLUTION 12CA.** Introduced by Schimek, 27.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 7:

III-7 At the general election to be held in November 1964, one-half the members of the Legislature, or as nearly thereto as may be practicable, shall be elected for a term of four years and the remainder for a term of two years, and thereafter all members shall be elected for a term of four years, with the manner of such election to be determined by the Legislature. When the Legislature is redistricted, the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term. Each member shall be nominated and elected in a nonpartisan manner and without any indication on the ballot that he or she is affiliated with or endorsed by any political party or organization. Each member of the Legislature shall receive a an annual salary of ~~not to exceed one~~ twenty-four thousand dollars per month during the term of his or her office. In addition to his or her salary, each member shall receive an amount equal to his or her actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay nor perquisites other than his or her salary and expenses, and employees of the Legislature shall receive no compensation other than their salary or per diem.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to change the annual salary of members of the Legislature to twenty-four thousand dollars.

For  
Against.

Referred to the Reference Committee.

**LEGISLATIVE RESOLUTION 13CA.** Introduced by Schimek, 27 .

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, sections 7 and 19:

III-7 At the general election to be held in November 1964, one-half the members of the Legislature, or as nearly thereto as may be practicable, shall be elected for a term of four years and the remainder for a term of two years, and thereafter all members shall be elected for a term of four years, with the manner of such election to be determined by the Legislature. When the Legislature is redistricted, the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term. Each member shall be nominated and elected in a nonpartisan manner and without any indication on the ballot that he or she is affiliated with or endorsed by any political party or organization. ~~Each~~ Until January 3, 2007, each member of the Legislature shall receive a salary of not to exceed one thousand dollars per month during the term of his or her office. Commencing January 3, 2007, each member of the Legislature shall receive an annual salary of twenty-four thousand dollars during the term of his or her office which shall be adjusted beginning January 1, 2008, and every two years thereafter, by the average percentage pay increase negotiated for members of the state employee collective bargaining units for the prior fiscal year. In addition to his or her salary, each member shall receive an amount equal to his or her actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay nor perquisites other than his or her salary and expenses, and employees of the Legislature shall receive no compensation other than their salary or per diem.

III-19 (1) The Legislature shall never grant any extra compensation to any public officer, agent, or servant after the services have been rendered nor to any contractor after the contract has been entered into, except that retirement benefits of retired public officers and employees may be adjusted to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement.

(2) The compensation of any public officer, including any officer whose compensation is fixed by the Legislature, shall not be increased or diminished during his or her term of office, except that when there are members elected or appointed to the Legislature or the judiciary; or officers elected or appointed to a board or commission having more than one

member, and the terms of such members commence and end at different times, the compensation of all members ~~of the Legislature~~, of the judiciary, or of such board or commission may be increased or diminished at the beginning of the full term of any member thereof.

(3) Nothing in this section shall prevent local governing bodies from reviewing and adjusting vested pension benefits periodically as prescribed by ordinance.

(4) The surviving spouse of any retired public officer, agent, or servant, who has retired under a pension plan or system, shall be considered as having pensionable status and shall be entitled to the same benefits which may, at any time, be provided for or available to spouses of other public officers, agents, or servants who have retired under such pension plan or system at a later date, and such benefits shall not be prohibited by the restrictions of this section or of Article XIII, section 3 of ~~the Constitution of Nebraska~~ this Constitution.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to change the salary of members of the Legislature to twenty-four thousand dollars per year and to provide for adjustments every two years.

For

Against.

Referred to the Reference Committee.

#### **LEGISLATIVE RESOLUTION 14CA.** Introduced by Schimek, 27.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To repeal Article III, section 12:

Article III, section 12, of the Constitution of Nebraska is repealed.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to repeal term limit provisions for members of the Legislature.

For

Against.

Referred to the Reference Committee.

#### **LEGISLATIVE RESOLUTION 15.** Introduced by Smith, 48; Brown, 6; Cunningham, 40; Erdman, 47.

WHEREAS, the federal excise tax on communications was enacted in 1898 for the purpose of funding the Spanish-American War; and

WHEREAS, the tax was introduced as a "temporary" luxury tax; and

WHEREAS, telephone service is no longer a luxury but rather a necessity for consumers of all income levels; and

WHEREAS, the federal excise tax is regressive, as low-income Americans pay a higher percentage of their income for telephone services than high-income Americans; and

WHEREAS, telecommunications services are the infrastructure upon which new technologies, including the Internet, depend and therefor the telecommunications excise tax discourages expansion of both the telephone infrastructure and new technologies; and

WHEREAS, the federal excise tax on telecommunications flows into the general fund rather than being earmarked for a specific purpose; and

WHEREAS, both houses of Congress passed a repeal of the federal excise tax on telecommunications in 2000, which was vetoed by President William Jefferson Clinton.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature of the State of Nebraska requests its United States Senators to support the repeal of the federal excise tax on telecommunications.

2. That copies of this resolution be transmitted to the State of Nebraska's congressional delegation.

Laid over.

**LEGISLATIVE RESOLUTION 16CA.** Introduced by Schrock, 38; Aguilar, 35; Baker, 44; Brown, 6; Burling, 33; Byars, 30; Combs, 32; Connealy, 16; Cornett, 45; Cunningham, 40; Engel, 17; Fischer, 43; Flood, 19; Foley, 29; Howard, 9; Hudkins, 21; Janssen, 15; Johnson, 37; Kopplin, 3; Kremer, 34; Kruse, 13; Dw. Pedersen, 39; D. Pederson, 42; Preister, 5; Price, 26; Raikes, 25; Stuthman, 22; Thompson, 14.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 12:

III-12 ~~(1) No person shall be~~ (1)(a) Persons serving in the Legislature on January 1, 2001, are not eligible to serve as a member of the Legislature for four years next after the expiration of two consecutive terms regardless of the district represented.

~~(2) (b)~~ Service prior to January 1, 2001, as a member of the Legislature shall not be counted for the purpose of calculating consecutive terms in ~~subsection (1) subdivision (1)(a)~~ of this section.

~~(3) (c)~~ For the purpose of this section, service in office for more than one-

half of a term shall be deemed service for a term.

(d) This subsection terminates January 1, 2009.

(2) Except as provided in subsection (1) of this section, persons elected or appointed to the Legislature for terms beginning after January 1, 2001, shall be ineligible to the office of member of the Legislature for more than three consecutive full four-year terms.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to change term limit provisions for the Legislature by limiting members elected or appointed for terms beginning after January 1, 2001, to three consecutive full four-year terms.

For

Against.

Referred to the Reference Committee.

### **PROPOSED RULES CHANGE**

Senator Schimek offered the following proposed rules change:

Amend Rule 3 Section 5 (c) (ii)

The Executive Board is authorized to exercise jurisdiction over legislative bills and resolutions, including constitutional amendments, and hold hearings regarding such legislation when the issue presented by the legislative bill or resolution is one involving: a) the internal operations of the Legislature as a whole or in part or b) litigation or potential litigation wherein the Legislature or its members are parties. ~~of general import to the Legislature and its operations as a whole.~~ Such legislative hearings shall comply with the provisions in Rule 3, Sec. 13.

### **NOTICE OF COMMITTEE HEARINGS**

#### **Urban Affairs**

Room 1510

LB 7	Tuesday, January 18, 2005	1:30 p.m.
LB 75	Tuesday, January 18, 2005	1:30 p.m.
LB 169	Tuesday, January 18, 2005	1:30 p.m.
LB 186	Tuesday, January 18, 2005	1:30 p.m.

(Signed) Mike Friend, Chairperson

#### **Education**

Room 1525

LB 125	Tuesday, January 18, 2005	1:30 p.m.
LB 124	Tuesday, January 18, 2005	1:30 p.m.
LB 126	Tuesday, January 18, 2005	1:30 p.m.

(Signed) Ron Raikes, Chairperson

**Agriculture**  
Room 1524

LB 20	Tuesday, January 18, 2005	1:30 p.m.
LB 52	Tuesday, January 18, 2005	1:30 p.m.
LB 222	Tuesday, January 18, 2005	1:30 p.m.
LB 51	Tuesday, January 18, 2005	1:30 p.m.

(Signed) Bob Kremer, Chairperson

**ANNOUNCEMENTS**

The Revenue Committee elected Senator Connealy as Vice Chairperson.

The General Affairs Committee elected Senator Fischer as Vice Chairperson.

The Nebraska Retirement Systems Committee elected Senator Synowiecki as Vice Chairperson.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Price asked unanimous consent to have her name added as cointroducer to LB 43. No objections. So ordered.

Senator Cunningham asked unanimous consent to have his name added as cointroducer to LBs 34, 43, 67, 69, 70, 159, 173, and 189. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 62. No objections. So ordered.

Senators Johnson and Preister asked unanimous consent to have their names added as cointroducers to LB 28. No objections. So ordered.

Senator Baker asked unanimous consent to have his name added as cointroducer to LB 231. No objections. So ordered.

Senator Heidemann asked unanimous consent to have his name added as cointroducer to LB 273. No objections. So ordered.

Senator Stuthman asked unanimous consent to have his name added as cointroducer to LB 101. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Susan and Nick Breunig from Wahoo.

**ADJOURNMENT**

At 12:25 p.m., on a motion by Senator Redfield, the Legislature adjourned until 11:00 a.m., Wednesday, January 12, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

## **SIXTH DAY - JANUARY 12, 2005**

### **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

### **SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, January 12, 2005

### **PRAAYER**

The prayer was offered by Senator McDonald.

### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 11:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Bourne, Brashear, Byars, Janssen, and Landis who were excused; and Senators D. Pederson and Schimek who were excused until they arrive.

### **CORRECTIONS FOR THE JOURNAL**

The Journal for the fifth day was approved.

### **MOTION - Adopt Temporary Rules**

Senator Hudkins moved that the rules, as now in our possession, be adopted for today only, Wednesday, January 12, 2005.

The motion prevailed.

### **REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB 160	Government, Military and Veterans Affairs (rereferred)
LB 180	Executive Board
LB 227	Government, Military and Veterans Affairs (rereferred)
LB 228	Education (rereferred)
LB 233	Government, Military and Veterans Affairs
LB 234	Urban Affairs
LB 235	Revenue
LB 236	Business and Labor

LB 237	Business and Labor
LB 238	Business and Labor
LB 239	Education
LB 240	Government, Military and Veterans Affairs
LB 241	Government, Military and Veterans Affairs
LB 242	Government, Military and Veterans Affairs
LB 243	Health and Human Services
LB 244	Health and Human Services
LB 245	Business and Labor
LB 246	Health and Human Services
LB 247	Transportation and Telecommunications
LB 248	Revenue
LB 249	Transportation and Telecommunications
LB 250	Appropriations
LB 251	Judiciary
LB 252	Revenue
LB 253	Revenue
LB 254	Revenue
LB 255	Government, Military and Veterans Affairs
LB 256	Health and Human Services
LB 257	Business and Labor
LB 258	Health and Human Services
LB 259	Health and Human Services
LB 260	Judiciary
LB 261	Revenue
LB 262	General Affairs
LB 263	Revenue
LB 264	Health and Human Services
LB 265	Health and Human Services
LB 266	Health and Human Services
LB 267	Appropriations
LB 268	Urban Affairs
LB 269	Judiciary
LB 270	Education
LB 271	Health and Human Services
LB 272	Health and Human Services
LB 273	Government, Military and Veterans Affairs
LB 274	Transportation and Telecommunications
LB 275	Transportation and Telecommunications
LB 276	Transportation and Telecommunications
LB 277	Transportation and Telecommunications
LB 278	Judiciary
LB 279	Judiciary
LB 280	Judiciary
LB 281	Judiciary
LB 282	Judiciary
LB 283	Revenue
LB 284	Transportation and Telecommunications
LB 285	Education

LB 286	Agriculture
LB 287	General Affairs
LB 288	Transportation and Telecommunications
LB 289	Urban Affairs
LB 290	Government, Military and Veterans Affairs
LB 291	Revenue
LB 292	Judiciary
LB 293	Natural Resources
LB 294	Judiciary
LB 295	Transportation and Telecommunications
LB 296	Appropriations
LB 297	Business and Labor
LB 298	Natural Resources
LB 299	Revenue
LB 300	Revenue
LR 9	Health and Human Services

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

### **NOTICE OF COMMITTEE HEARINGS** **Health and Human Services**

Room 1510

LB 61	Wednesday, January 19, 2005	1:30 p.m.
LB 87	Wednesday, January 19, 2005	1:30 p.m.
LB 89	Wednesday, January 19, 2005	1:30 p.m.
LB 175	Wednesday, January 19, 2005	1:30 p.m.
LB 176	Wednesday, January 19, 2005	1:30 p.m.
LB 177	Wednesday, January 19, 2005	1:30 p.m.

Wednesday, January 19, 2005 1:30 p.m.  
Richard P. Nelson - Department of Health and Human Services Finance and Support  
Richard Raymond - Department of Health and Human Services Regulation and Licensure  
Richard DeLiberty - Behavioral Health Administrator

(Signed) Jim Jensen, Chairperson

### **Government, Military and Veterans Affairs** Room 1507

LB 54	Wednesday, January 19, 2005	1:30 p.m.
LB 96	Wednesday, January 19, 2005	1:30 p.m.
LB 103	Wednesday, January 19, 2005	1:30 p.m.
LB 227	Wednesday, January 19, 2005	1:30 p.m.

LB 35	Thursday, January 20, 2005	1:30 p.m.
LB 36	Thursday, January 20, 2005	1:30 p.m.
LB 53	Thursday, January 20, 2005	1:30 p.m.
LB 98	Thursday, January 20, 2005	1:30 p.m.
LB 9	Friday, January 21, 2005	1:30 p.m.
LB 11	Friday, January 21, 2005	1:30 p.m.
LB 37	Friday, January 21, 2005	1:30 p.m.
LB 72	Friday, January 21, 2005	1:30 p.m.

(Signed) DiAnna R. Schimek, Chairperson

**Nebraska Retirement Systems**  
Room 1525

Wednesday, January 19, 2005 9:00 a.m.  
 Denis Blank - Public Employees Retirement Board  
 Glenn Elwell - Public Employees Retirement Board  
 Mark Shepard - Public Employees Retirement Board

(Signed) Elaine Stuhr, Chairperson

**BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 379.** Introduced by Brown, 6.

A BILL FOR AN ACT relating to municipal counties; to amend section 13-2810, Revised Statutes Supplement, 2004; to change voting procedure for merger or consolidation issues; and to repeal the original section.

**LEGISLATIVE BILL 380.** Introduced by Redfield, 12; Bourne, 8; Byars, 30; Howard, 9; Kopplin, 3; McDonald, 41; D. Pederson, 42; Price, 26; Raikes, 25; Schrock, 38; Stuhr, 24.

A BILL FOR AN ACT relating to schools; to amend sections 79-586 and 79-589 to 79-592, Reissue Revised Statutes of Nebraska; to provide an alternative to bond for school district treasurers; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 381.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to pharmacy; to amend section 71-1,146.01, Reissue Revised Statutes of Nebraska, and section 71-1,142, Revised Statutes Supplement, 2004; to provide for facsimile medical orders; to define a term; and to repeal the original sections.

**LEGISLATIVE BILL 382.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to drugs; to amend sections 71-168, 71-1,146.01, 71-1,147.35, 71-5402, 71-5403, and 71-5404, Reissue Revised Statutes of Nebraska, and sections 28-401, 28-405, 28-414, 28-1437, and 71-1,142, Revised Statutes Supplement, 2004; to provide for electronic transmission of prescriptions; to define, redefine, and eliminate terms; to change provisions relating to controlled substances, mandatory reporting, compounding, and drug product selection; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 383.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 49-801.01, Reissue Revised Statutes of Nebraska; to change a provision relating to references to the Internal Revenue Code; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 384.** Introduced by Combs, 32.

A BILL FOR AN ACT relating to natural gas; to amend sections 14-2113, 14-2117, 14-2122, 18-409, 66-1801, 66-1802, 66-1804, 66-1841, 66-1852, and 75-109.01, Reissue Revised Statutes of Nebraska, and sections 13-2802, 14-2116, and 19-4627, Revised Statutes Supplement, 2004; to change and eliminate provisions relating to natural gas; to define and redefine terms; to provide powers and duties; to harmonize provisions; to repeal the original sections; and to outright repeal sections 57-1301 to 57-1307, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 385.** Introduced by Johnson, 37.

A BILL FOR AN ACT relating to criminal procedure; to amend sections 29-2262, 29-4101 to 29-4109, and 29-4112 to 29-4115, Revised Statutes Supplement, 2004; to rename and change provisions of the DNA Detection of Sexual and Violent Offenders Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 386.** Introduced by Kremer, 34; Aguilar, 35.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 13-518, Revised Statutes Supplement, 2004; to modify the definition of allowable growth for budgetary purposes; and to repeal the original section.

**LEGISLATIVE BILL 387.** Introduced by Combs, 32; Price, 26.

A BILL FOR AN ACT relating to nursing assistants; to amend sections 71-6603 and 71-6725, Reissue Revised Statutes of Nebraska, and sections 71-448, 71-6038, and 71-6039, Revised Statutes Supplement, 2004; to change provisions relating to training and employment of nursing assistants; to define terms; to require reports; to provide a penalty; to harmonize

provisions; and to repeal the original sections.

**LEGISLATIVE BILL 388.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to alcoholic liquor; to amend sections 53-101 and 60-6,211.08, Reissue Revised Statutes of Nebraska; to permit removal of resealed bottles of wine from licensed premises as prescribed; to redefine a term; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 389.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to health care; to adopt the Health Care Prompt Payment Act.

**LEGISLATIVE BILL 390.** Introduced by Smith, 48.

A BILL FOR AN ACT relating to the Livestock Waste Management Act; to amend section 54-2419, Reissue Revised Statutes of Nebraska; to change provisions relating to permit conditions; and to repeal the original section.

**LEGISLATIVE BILL 391.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to the Nebraska Educational Finance Authority; to amend section 85-1714, Reissue Revised Statutes of Nebraska; to authorize use of telephone conferencing and videoconferencing; and to repeal the original section.

**LEGISLATIVE BILL 392.** Introduced by Mines, 18; Price, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Department of Administrative Services.

**LEGISLATIVE BILL 393.** Introduced by Smith, 48.

A BILL FOR AN ACT relating to electronic mail; to prohibit acts relating to electronic mail; to provide a cause of action and damages; to provide for enforcement; and to provide severability.

**LEGISLATIVE BILL 394.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to the Employment Security Law; to amend section 48-604, Reissue Revised Statutes of Nebraska; to change the definition of employment; and to repeal the original section.

**LEGISLATIVE BILL 395.** Introduced by Loudon, 49; Baker, 44; Combs, 32; Connealy, 16; Cunningham, 40; Erdman, 47; Fischer, 43; Kremer, 34; Kruse, 13; McDonald, 41; Smith, 48.

A BILL FOR AN ACT relating to workers' compensation; to amend section

48-106, Reissue Revised Statutes of Nebraska; to exempt volunteer agricultural workers from coverage; and to repeal the original section.

**LEGISLATIVE BILL 396.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to child support; to amend sections 42-358 and 42-358.02, Reissue Revised Statutes of Nebraska; to clarify a duty involving the reporting of delinquent child support; and to repeal the original sections.

**LEGISLATIVE BILL 397.** Introduced by Smith, 48; Schrock, 38.

A BILL FOR AN ACT relating to recycling; to amend section 81-1505.01, Reissue Revised Statutes of Nebraska, and section 81-1505, Revised Statutes Supplement, 2004; to adopt the Cathode Ray Tube Device Recycling Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 398.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to appropriations; to require legislative approval prior to expenditure of certain federal funds.

**LEGISLATIVE BILL 399.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2001, 77-2002, 77-2101.01, and 77-2101.02, Reissue Revised Statutes of Nebraska; to terminate inheritance, estate, and generation-skipping taxes; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 400.** Introduced by Baker, 44; Wehrbein, 2.

A BILL FOR AN ACT relating to motor vehicle registration; to amend section 60-302, Reissue Revised Statutes of Nebraska; to eliminate a ten-day grace period for failure to register a vehicle; and to repeal the original section.

**LEGISLATIVE BILL 401.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to elections; to amend section 32-101, Reissue Revised Statutes of Nebraska; to provide for conducting elections by mail in certain precincts; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 402.** Introduced by Fischer, 43.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-1628, Revised Statutes Supplement, 2004; to modify provisions relating to the production of jury master lists; and to repeal the original section.

**LEGISLATIVE BILL 403.** Introduced by Friend, 10; Synowiecki, 7.

A BILL FOR AN ACT relating to motor vehicle homicide; to amend section 29-2221, Reissue Revised Statutes of Nebraska, and section 28-306, Revised Statutes Supplement, 2004; to provide a penalty for committing motor vehicle homicide while operating a motor vehicle on a suspended, revoked, canceled, impounded, or disqualified operator's license; to change provisions relating to habitual criminals; and to repeal the original sections.

**LEGISLATIVE BILL 404.** Introduced by Wehrbein, 2; Baker, 44; Raikes, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2715.07, Reissue Revised Statutes of Nebraska, and sections 77-2701 and 77-2734.03, Revised Statutes Supplement, 2004; to create an income tax credit for livestock modernization or expansion; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 405.** Introduced by Schimek, 27; Connealy, 16; Janssen, 15.

A BILL FOR AN ACT relating to Indian gaming; to amend section 9-1,106, Reissue Revised Statutes of Nebraska; to change provisions relating to negotiation and adoption of a tribal-state gaming compact; and to repeal the original section.

**LEGISLATIVE BILL 406.** Introduced by Schimek, 27; Stuthman, 22.

A BILL FOR AN ACT relating to parking permits; to amend section 18-1740, Revised Statutes Supplement, 2004; to change the expiration date of parking permits issued to handicapped or disabled persons; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 407.** Introduced by Raikes, 25; Hudkins, 21; Redfield, 12.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-1347, 77-1359, and 77-1381, Reissue Revised Statutes of Nebraska, and sections 77-201, 77-1343, 77-1344, 77-1345, 77-1345.01, 77-1348, 77-1363, 77-5022, and 77-5023, Revised Statutes Supplement, 2004; to change and eliminate provisions relating to agricultural and horticultural land valuation; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 77-1360.01, 77-1361, and 77-1362, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 408.** Introduced by Flood, 19; Erdman, 47; Foley, 29; Heidemann, 1; Langemeier, 23; Mines, 18; Stuthman, 22.

A BILL FOR AN ACT relating to elections; to amend sections 32-101 and

32-939, Reissue Revised Statutes of Nebraska; to allow certain persons residing outside the country to register and vote in Nebraska; to change provisions relating to receipt and return of ballots by voters outside the country; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 409.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to homesteads; to amend section 40-104, Reissue Revised Statutes of Nebraska; to change provisions relating to conveyances and encumbrances; and to repeal the original section.

**LEGISLATIVE BILL 410.** Introduced by Flood, 19.

A BILL FOR AN ACT relating to real property; to amend sections 76-250 and 76-802, Reissue Revised Statutes of Nebraska; to provide for certificates of dissolution of marriage to be filed with the register of deeds as prescribed; to provide a duty for the Revisor of Statutes; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 411.** Introduced by Stuhr, 24; Erdman, 47; Price, 26; Synowiecki, 7.

A BILL FOR AN ACT relating to retirement; to amend sections 79-902 and 79-906, Reissue Revised Statutes of Nebraska; to redefine terms; to change calculations relating to school employees; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 412.** Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Erdman, 47; Price, 26; Synowiecki, 7.

A BILL FOR AN ACT relating to retirement; to amend section 81-2017, Revised Statutes Supplement, 2004; to change provisions relating to the State Patrol Retirement Fund; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 413.** Introduced by Price, 26; Cornett, 45; Redfield, 12.

A BILL FOR AN ACT relating to labor; to amend section 77-2716, Reissue Revised Statutes of Nebraska; to adopt the Wage Replacement Savings Plan Act; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 414.** Introduced by Combs, 32; Baker, 44; Cunningham, 40; Erdman, 47; Dw. Pedersen, 39; Price, 26; Smith, 48.

A BILL FOR AN ACT relating to natural gas; to amend section 66-1802, Reissue Revised Statutes of Nebraska; to change provisions relating to the State Natural Gas Regulation Act; to redefine natural gas public utility; and to repeal the original section.

**LEGISLATIVE BILL 415.** Introduced by Combs, 32; Burling, 33; Cunningham, 40; Kremer, 34.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-1,110, Reissue Revised Statutes of Nebraska; to provide for confidential records as prescribed; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 416.** Introduced by Howard, 9; Beutler, 28; Combs, 32; Kruse, 13; Loudon, 49; Redfield, 12.

A BILL FOR AN ACT relating to children; to amend sections 43-117.01, 43-284.02, 43-285, 43-294, and 79-215, Reissue Revised Statutes of Nebraska; to change provisions relating to wards of the state; to authorize independent living services for former wards of the state; and to repeal the original sections.

**LEGISLATIVE BILL 417.** Introduced by Stuthman, 22; Aguilar, 35; Cunningham, 40; Hudkins, 21; Kremer, 34; Loudon, 49; McDonald, 41; Stuhr, 24; Synowiecki, 7.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.04, 77-2701.10, 77-2701.16, 77-2701.34, 77-2703, 77-2703.01, and 77-2704.55, Revised Statutes Supplement, 2004; to exempt construction labor and services from sales taxation; to eliminate a definition; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal section 77-2701.45, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 418.** Introduced by Kremer, 34; Baker, 44; Burling, 33; Combs, 32; Fischer, 43; Hudkins, 21; McDonald, 41; Schrock, 38; Stuhr, 24; Stuthman, 22.

A BILL FOR AN ACT relating to school organization and reorganization; to amend sections 79-234, 79-473, and 79-475, Reissue Revised Statutes of Nebraska; to change provisions related to option students residing in certain school districts; to provide for negotiations involving territory that is annexed; to provide for arbitration; to provide for a delay for certain school district mergers; to harmonize provisions; and to repeal the original sections.

#### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Stuhr asked unanimous consent to have her name added as cointroducer to LBs 28, 220, 344, and 370. No objections. So ordered.

Senator Fischer asked unanimous consent to have her name added as cointroducer to LBs 273 and 155. No objections. So ordered.

Senator Flood asked unanimous consent to have his name added as cointroducer to LB 231. No objections. So ordered.

Senator Stuthman asked unanimous consent to have his name added as cointroducer to LB 224. No objections. So ordered.

Senator Kruse asked unanimous consent to have his name added as cointroducer to LB 273. No objections. So ordered.

Senator Cunningham asked unanimous consent to have his name added as cointroducer to LB 58. No objections. So ordered.

Senator Burling asked unanimous consent to have his name added as cointroducer to LB 156. No objections. So ordered.

### **WITHDRAW - Cointroducer**

Senator Stuthman withdrew his name as cointroducer to LR 16CA.

### **NOTICE OF COMMITTEE HEARINGS**

#### **Natural Resources**

Room 1525

LB 21	Wednesday, January 19, 2005	1:30 p.m.
LB 29	Wednesday, January 19, 2005	1:30 p.m.
LB 33	Wednesday, January 19, 2005	1:30 p.m.
LB 102	Wednesday, January 19, 2005	1:30 p.m.

Wednesday, January 19, 2005	1:30 p.m.
Jim Van Marter, Jr. - Natural Resources Commission	

(Signed) Ed Schrock, Chairperson

#### **Judiciary**

Room 1113

LB 91	Wednesday, January 19, 2005	1:30 p.m.
LB 93	Wednesday, January 19, 2005	1:30 p.m.
LB 105	Wednesday, January 19, 2005	1:30 p.m.
LB 168	Wednesday, January 19, 2005	1:30 p.m.
LB 206	Wednesday, January 19, 2005	1:30 p.m.
LB 207	Wednesday, January 19, 2005	1:30 p.m.

LB 42	Friday, January 21, 2005	1:30 p.m.
LB 62	Friday, January 21, 2005	1:30 p.m.
LB 104	Friday, January 21, 2005	1:30 p.m.
LB 151	Friday, January 21, 2005	1:30 p.m.
LB 173	Friday, January 21, 2005	1:30 p.m.
LB 194	Friday, January 21, 2005	1:30 p.m.

(Signed) Patrick J. Bourne, Chairperson

**Revenue**  
Room 1524

LB 15	Wednesday, January 19, 2005	1:30 p.m.
LB 263	Wednesday, January 19, 2005	1:30 p.m.
LB 283	Wednesday, January 19, 2005	1:30 p.m.
LB 18	Wednesday, January 19, 2005	1:30 p.m.
LB 66	Wednesday, January 19, 2005	1:30 p.m.
LB 261	Wednesday, January 19, 2005	1:30 p.m.

(Signed) Matt Connealy, Vice Chairperson

**ADJOURNMENT**

At 11:45 a.m., on a motion by Senator Hudkins, the Legislature adjourned until 9:00 a.m., Thursday, January 13, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

# **SEVENTH DAY - JANUARY 13, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, January 13, 2005

#### **PRAYER**

The prayer was offered by Senator Smith.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brashear, Landis, Dw. Pedersen, and Wehrbein who were excused until they arrive.

#### **CORRECTIONS FOR THE JOURNAL**

The Journal for the sixth day was approved.

#### **MOTION - Adopt Temporary Rules**

Senator Hudkins moved that the rules, as now in our possession, be adopted for today only, Thursday, January 13, 2005.

The motion prevailed.

#### **REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB 251	Transportation and Telecommunications (rereferred)
LB 301	Health and Human Services
LB 302	Urban Affairs
LB 303	Education
LB 304	Education
LB 305	Education
LB 306	Health and Human Services
LB 307	Health and Human Services
LB 308	Judiciary

LB 309	Revenue
LB 310	Banking, Commerce and Insurance
LB 311	Revenue
LB 312	Revenue
LB 313	Revenue
LB 314	Education
LB 315	Banking, Commerce and Insurance
LB 316	Judiciary
LB 317	Agriculture
LB 318	Health and Human Services
LB 319	Health and Human Services
LB 320	Judiciary
LB 321	Government, Military and Veterans Affairs
LB 322	Judiciary
LB 323	Appropriations
LB 324	Revenue
LB 325	Revenue
LB 326	Education
LB 327	Education
LB 328	Nebraska Retirement Systems
LB 329	Nebraska Retirement Systems
LB 330	Agriculture
LB 331	Health and Human Services
LB 332	Health and Human Services
LB 333	Transportation and Telecommunications
LB 334	Revenue
LB 335	Natural Resources
LB 336	Natural Resources
LB 337	Government, Military and Veterans Affairs
LB 338	Health and Human Services
LB 339	Health and Human Services
LB 340	Natural Resources
LB 341	Transportation and Telecommunications
LB 342	Natural Resources
LB 343	Transportation and Telecommunications
LB 344	Transportation and Telecommunications
LB 345	Judiciary
LB 346	Revenue
LB 347	Education
LB 348	Judiciary
LB 349	Judiciary
LB 350	Education
LB 351	Natural Resources
LB 352	Education
LB 353	Revenue
LB 354	Business and Labor
LB 355	General Affairs
LB 356	Revenue
LB 357	Education

LB 358	Revenue
LB 359	Natural Resources
LB 360	Judiciary
LB 361	Judiciary
LB 362	Judiciary
LB 363	Judiciary
LB 364	Nebraska Retirement Systems
LB 365	Nebraska Retirement Systems
LB 366	Nebraska Retirement Systems
LB 367	Nebraska Retirement Systems
LB 368	Nebraska Retirement Systems
LB 369	Nebraska Retirement Systems
LB 370	Health and Human Services
LB 371	Revenue
LB 372	Urban Affairs
LB 373	Executive Board
LB 374	Banking, Commerce and Insurance
LB 375	Banking, Commerce and Insurance
LB 376	Appropriations
LB 377	Judiciary
LB 378	Education
LR 11CA	Government, Military and Veterans Affairs
LR 12CA	Executive Board
LR 13CA	Executive Board
LR 14CA	Executive Board
LR 16CA	Executive Board

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

### ANNOUNCEMENT

The Rules Committee elected Senator Thompson as Vice Chairperson.

### NOTICE OF COMMITTEE HEARING

**Judiciary**  
Room 1113

LB 81	Thursday, January 20, 2005	1:30 p.m.
LB 100	Thursday, January 20, 2005	1:30 p.m.
LB 112	Thursday, January 20, 2005	1:30 p.m.
LB 115	Thursday, January 20, 2005	1:30 p.m.
LB 200	Thursday, January 20, 2005	1:30 p.m.
LB 260	Thursday, January 20, 2005	1:30 p.m.

(Signed) Patrick J. Bourne, Chairperson

**BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 419.** Introduced by Connealy, 16; Flood, 19.

A BILL FOR AN ACT relating to public service attorneys; to amend section 29-3927, Revised Statutes Supplement, 2004; to adopt the Legal Education for Public Service Loan Repayment Act; to create a fund; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 420.** Introduced by Connealy, 16.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-121, Reissue Revised Statutes of Nebraska; to change provisions relating to injuries to specific body parts and duration of payments; and to repeal the original section.

**MESSAGE FROM THE GOVERNOR**

January 13, 2005

Mr. President, Mr. Speaker,  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President and Senators:

Today, I present budget recommendations for your consideration for the 2005-2007 biennium.

This past year has brought a turn for the positive in the economy of our nation and for the State of Nebraska. It was just two years ago that we faced the prospect of preparing the state biennial budget upon two years of negative growth in tax receipts. The current forecast of tax receipts for the next biennium represents an average of 4.1 percent growth. This is good news.

Our experience these past three years with fiscal adversity illustrates the importance of building the state's biennial budget, for both the short and long term, on sound financial principles including an adherence to structural balance and adequate cash reserves. Our fiscal discipline has served us well and will be critically important in the preparation of the 2005-2007 biennial budget.

The various state agencies, boards, and commissions have submitted budget proposals that exceed a 12 percent increase in the state budget. You will be presented with many additional worthy proposals for both short and

long term commitments to additional spending. Needless to say, it is not possible to fund all requests.

This budget plan first addresses two fiscal and legal imperatives that must be accomplished in the development of the 2005-2007 biennial budget. It rebuilds the State's General Fund operating reserve by providing for a biennium ending balance that meets the current 3% minimum reserve requirement. It also proposes to pay \$145.8 million on August 1, 2005 to satisfy the low-level radioactive waste judgment against the state. A delay in full payment would require spending another \$8.2 million.

This budget plan does not recommend any tax increases and does not restore the many base budget reductions made since 2001. The recommendation fully funds the K-12 TEEOSA school aid formula and is the single largest increase in the State budget. It includes additional support for statewide economic initiatives and recommends financing the care of elderly citizens in state and private, long and short term care facilities. It also provides ongoing support for the very important and historic reforms in mental health, child protection, and the stewardship of a vital natural resource -- water.

These recommendations for the 2005-2007 biennium represent a two year average growth of 5.8 percent. The majority of that growth is accounted for within three recommendations. The recommendation to fully finance the state aid to schools formula results, in the first year, in an increase of \$61 million, which is 40 percent of the total increase in spending. The recommendation to finance Medicaid, a major portion of which is our commitment to care for our aging population, represents an increase of nearly \$32 million, which is 20 percent of the total increase in spending. The recommendation to enhance financial support of our university, state colleges, and community colleges, involves an increase of nearly \$22 million, which is 14 percent of the overall increase in spending. When combined, these three recommendations account for nearly 75 percent of all recommended growth. Another 8 percent, \$12.7 million of the recommended spending increase is earmarked to meet annual financing requirements for State employee salaries and benefits.

A third fiscal imperative addressed in the budget recommendations is the need for structural balance--a positive difference between net general fund tax receipts and general fund appropriations. These recommendations provide for that balance. However, this becomes increasingly difficult for the Governor and the Legislature as state aid to schools and Medicaid claim increasingly larger shares of the state budget. In that regard, planning estimates for the following 2007-2009 budget biennium indicate a continuance of the aid adjustment factor and the \$1.05 maximum levy limit for purposes of determining TEEOSA school aid. The planning estimates further indicate that future allowable spending growth can be no greater than five percent.

As always, I appreciate the special personal investment that each of you make on behalf of your constituents and the entire State of Nebraska.

Sincerely,  
(Signed) Mike Johanns  
Governor

### **BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 421.** Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2003, LB 46A, section 6; Laws 2003, LB 404, section 19; Laws 2003, LB 406, sections 8 and 9; Laws 2003, LB 407, sections 94, 104, 105, 107, 118, 119, 138, and 254; and Laws 2004, LB 1089, sections 17, 18, 19, 20, 21, 22, 24, 25, 26, 28, 31, 46, 47, 50, 52, 55, 59, 60, 61, 62, 66, 68, 70, 73, 76, 77, 86, 95, 98, 103, 105, 106, 107, 108, 109, 111, 112, 114, 116, 119, 120, 123, 127, 138, 140, 142, 143, 146, 147, 149, 150, 158, 168, 177, 178, 179, 181, 185, 186, 191, 193, 195, 196, 199, 200, 201, 202, 206, 210, 217, 221, 225, 228, 231, 233, and 235; to define terms; to provide, change, and eliminate provisions relating to appropriations; to provide for transfers; to repeal the original sections; to outright repeal Laws 2004, LB 1084A, section 1; and to declare an emergency.

**LEGISLATIVE BILL 422.** Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of the salaries and benefits of certain state officers for FY2005-06 and FY2006-07; to define terms; to provide an operative date; and to declare an emergency.

**LEGISLATIVE BILL 423.** Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of salaries of members of the Nebraska Legislature and payments to be made as provided by Chapter 68, article 6, for FY2005-06 and FY2006-07; to provide an operative date; and to declare an emergency.

**LEGISLATIVE BILL 424.** Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to define terms; to appropriate funds for capital construction and property acquisition as prescribed; to state intent; to require program statements; to provide an

operative date; and to declare an emergency.

**LEGISLATIVE BILL 425.** Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to state intent; to define terms; to make appropriations for the expenses of Nebraska State Government; for the biennium ending June 30, 2007; to transfer funds; to provide duties; to provide an operative date; and to declare an emergency.

**LEGISLATIVE BILL 426.** Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to funds; to amend sections 47-632 and 72-816, Reissue Revised Statutes of Nebraska, and sections 29-2262.07, 71-7611, and 81-1561, Revised Statutes Supplement, 2004; to create funds; to transfer funds; to eliminate obsolete provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 427.** Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to the Cash Reserve Fund; to amend section 84-612, Revised Statutes Supplement, 2004; to transfer funds as prescribed and to eliminate completed transfers; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 428.** Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to the Deferred Building Renewal Act; to amend sections 81-188.02, 81-188.04, and 81-188.06, Revised Statutes Supplement, 2004; to change provisions relating to renewal assessment funds; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 429.** Introduced by Speaker Brashear, 4; at the request of the Governor.

A BILL FOR AN ACT relating to court fees; to amend section 33-107.03, Reissue Revised Statutes of Nebraska, and sections 81-1428 and 81-1429, Revised Statutes Supplement, 2004; to increase a fee; to extend a fee; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 430.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 9-647 and 53-179, Reissue Revised Statutes of Nebraska; to change provisions relating to permissible retail sale hours; to harmonize

provisions; and to repeal the original sections.

**LEGISLATIVE BILL 431.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to courts; to amend section 24-301.02, Revised Statutes Supplement, 2004; to change district court judicial districts as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 432.** Introduced by Brown, 6; Friend, 10; Redfield, 12; Thompson, 14.

A BILL FOR AN ACT relating to counties; to create and provide duties for a task force; to require a report; and to declare an emergency.

**LEGISLATIVE BILL 433.** Introduced by Cunningham, 40.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-120, 48-120.02, and 48-146.03, Reissue Revised Statutes of Nebraska; to change provisions relating to selection of physician; to harmonize provisions; and to repeal the original sections.

### **MOTION - Adopt Permanent Rules**

Senator Hudkins moved to adopt the permanent rules for the Ninety-Ninth Legislature, First Session.

Senator Schimek renewed her proposed rules change found on page 198.

Senator Schimek withdrew her proposed rules change.

Senator Smith offered the following proposed rules change:

#### Amend Rule 3, Sec. 13

**Sec. 13. Public Hearing, Notice, Video Teleconferencing.** (a) Before taking final action on a bill, resolution, or gubernatorial appointment, a committee shall hold a public hearing thereon and shall give at least seven calendar days' notice, after the bill or pronouncement of the appointee shall have been printed, by publication in the Legislative Journal. No bill or resolution having been set for public hearing shall be withdrawn nor the hearing canceled within seven calendar days of the date set for said public hearing.

(b) No more than twice per calendar year, any member may direct a committee to broadcast a public hearing through live video teleconferencing to designated locations within the state, provided written notice of such directive is given to the chairperson of the committee holding such public hearing no less than three legislative days prior to the date of such hearing.

Senator Chambers offered the following amendment to the Smith proposed rules change:

Amend Smith Proposal

In line 1, strike "direct" and insert "request";

In line 4, strike "directive" and insert "request"

Senator Chambers withdrew his amendment.

Senator Smith withdrew his proposed rules change.

Senator Hudkins renewed her pending motion to adopt the permanent rules for the Ninety-Ninth Legislature, First Session.

Senator Chambers moved for a call of the house. The motion prevailed with 25 ayes, 2 nays, and 22 not voting.

Senator Chambers requested a roll call vote on the motion to adopt permanent rules.

Voting in the affirmative, 39:

Aguilar	Connealy	Howard	Louden	Schimek
Baker	Cornett	Hudkins	McDonald	Schrock
Beutler	Cudaback	Janssen	Mines	Stuhr
Bourne	Cunningham	Jensen	Pahls	Stuthman
Brown	Engel	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Combs	Heidemann	Kruse	Raikes	

Voting in the negative, 4:

Chambers	Erdman	Foley	Smith
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Present and not voting, 2:

Friend	Redfield
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Excused and not voting, 4:

Brashear	Landis	Langemeier	Pedersen, Dw.
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The Hudkins motion to adopt permanent rules prevailed with 39 ayes, 4 nays, 2 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

**NOTICE OF COMMITTEE HEARINGS****Natural Resources**

Room 1525

LB 34	Thursday, January 20, 2005	1:30 p.m.
LB 121	Thursday, January 20, 2005	1:30 p.m.
LB 162	Thursday, January 20, 2005	1:30 p.m.
LR 8CA	Thursday, January 20, 2005	1:30 p.m.

Thursday, January 20, 2005	1:30 p.m.
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James J. Jenkins - Nebraska Ethanol Board

Charles J. "Tod" Brodersen - Nebraska Ethanol Board

LB 94	Friday, January 21, 2005	1:30 p.m.
LB 139	Friday, January 21, 2005	1:30 p.m.
LB 298	Friday, January 21, 2005	1:30 p.m.
LB 335	Friday, January 21, 2005	1:30 p.m.

Friday, January 21, 2005	1:30 p.m.
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Ken Kunze - Nebraska Power Review Board

(Signed) Ed Schrock, Chairperson

**Nebraska Retirement Systems**

Room 1525

LB 329	Thursday, January 20, 2005	12:15 p.m.
LB 368	Thursday, January 20, 2005	12:15 p.m.

(Signed) Elaine Stuhr, Chairperson

**Health and Human Services**

Room 1510

LB 164	Thursday, January 20, 2005	1:30 p.m.
LB 174	Thursday, January 20, 2005	1:30 p.m.
LB 25	Thursday, January 20, 2005	1:30 p.m.
LB 26	Thursday, January 20, 2005	1:30 p.m.
LB 27	Thursday, January 20, 2005	1:30 p.m.
LB 301	Thursday, January 20, 2005	1:30 p.m.

LB 205	Friday, January 21, 2005	1:30 p.m.
LB 246	Friday, January 21, 2005	1:30 p.m.
LB 243	Friday, January 21, 2005	1:30 p.m.
LB 244	Friday, January 21, 2005	1:30 p.m.

(Signed) Jim Jensen, Chairperson

**Revenue**  
Room 1524

LB 216	Thursday, January 20, 2005	1:30 p.m.
LB 16	Thursday, January 20, 2005	1:30 p.m.
LB 17	Thursday, January 20, 2005	1:30 p.m.
LB 371	Thursday, January 20, 2005	1:30 p.m.
LB 44	Thursday, January 20, 2005	1:30 p.m.
LB 45	Thursday, January 20, 2005	1:30 p.m.
LB 46	Thursday, January 20, 2005	1:30 p.m.

(Signed) Matt Connealy, Vice Chairperson

**REPORT OF THE EXECUTIVE BOARD**

Senator Engel, Chairperson of the Executive Board, reported the appointments of the following members of the Legislature to the following special committees:

Building Maintenance			
Connealy	Jensen	Smith	
Janssen	D. Pederson	Thompson	
Education Commission of the States			
Fischer	Raikes	Stuhr	
Midwestern Higher Education Commission (Midwest Compact)			
Fischer	Raikes		
Legislative Performance Audit			
Beutler	Engel	McDonald	Price
Brashear	Erdman	D. Pederson	
Midwest Interstate Passenger Rail Compact			
Cornett	Stuthman		

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

**BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 434.** Introduced by Cunningham, 40; Combs, 32.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-120 and 48-1,110, Reissue Revised Statutes of Nebraska; to change provisions relating to medical services and fees; to harmonize

provisions; and to repeal the original sections.

**LEGISLATIVE BILL 435.** Introduced by Cunningham, 40; Combs, 32.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-120, 48-121, and 48-1,110, Reissue Revised Statutes of Nebraska; to change provisions relating to medical fees, compensation for disability, and duration of certain compensation; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 436.** Introduced by Combs, 32; Connealy, 16; Preister, 5.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-121, Reissue Revised Statutes of Nebraska; to provide for compensation for permanent disfigurement or scarring as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 437.** Introduced by Smith, 48; Engel, 17; Erdman, 47; Foley, 29; Hudkins, 21; Jensen, 20; Langemeier, 23; Schrock, 38; Stuhr, 24.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 2004; to adopt the Human Cloning Prohibition Act; to provide a penalty; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 438.** Introduced by Janssen, 15; Byars, 30; Flood, 19; Pahls, 31.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-310 and 60-315, Reissue Revised Statutes of Nebraska; to provide for Shriners Plates; to change provisions for message plates; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 439.** Introduced by Kremer, 34.

A BILL FOR AN ACT relating to grain; to amend sections 75-902, 75-903, 75-905, 88-535, and 88-543, Reissue Revised Statutes of Nebraska, and sections 88-525, 88-526, and 88-528, Revised Statutes Supplement, 2004; to provide for direct ship storage programs as prescribed; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 440.** Introduced by Kremer, 34.

A BILL FOR AN ACT relating to agriculture; to adopt the Feedlot Statutory Trust Act.

**LEGISLATIVE BILL 441.** Introduced by Kremer, 34.

A BILL FOR AN ACT relating to agriculture; to amend section 54-1,108, Reissue Revised Statutes of Nebraska; to change the livestock brand inspection fee; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 442.** Introduced by McDonald, 41.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-115, Reissue Revised Statutes of Nebraska; to allow coverage for members of county fair boards and county agricultural societies; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 443.** Introduced by McDonald, 41; Schimek, 27.

A BILL FOR AN ACT relating to county government; to amend sections 23-148, 23-296, and 23-297, Reissue Revised Statutes of Nebraska; to change provisions relating to the discontinuance of township organization; to provide powers and duties; to harmonize provisions; to repeal the original sections; to outright repeal section 23-290, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**LEGISLATIVE BILL 444.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to child support; to amend sections 43-3342.01 and 43-3342.03, Reissue Revised Statutes of Nebraska; to change provisions relating to the State Disbursement Unit; and to repeal the original sections.

**LEGISLATIVE BILL 445.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to physical therapy; to amend sections 71-2801 to 71-2803, 71-2804, 71-2807, and 71-2810, Reissue Revised Statutes of Nebraska, and section 71-101, Revised Statutes Supplement, 2004; to name the Physical Therapy Practice Act; to change and eliminate provisions relating to physical therapists, physical therapist assistants, and physical therapy aides; to harmonize provisions; to repeal the original sections; and to outright repeal sections 71-2803.01, 71-2805, 71-2808, 71-2809, 71-2811, 71-2812, 71-2814 to 71-2817, and 71-2820 to 71-2822, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 446.** Introduced by Jensen, 20; Brown, 6; Byars, 30; Combs, 32; Cunningham, 40; Erdman, 47; Howard, 9; Johnson, 37; Kruse, 13; Price, 26; Stuthman, 22.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-168, 71-168.02, and 71-6736, Reissue Revised Statutes of Nebraska, and section 84-712.05, Revised Statutes Supplement, 2004; to adopt the Patient Safety Improvement Act; to harmonize provisions; and to

repeal the original sections.

**LEGISLATIVE BILL 447.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to retirement; to amend sections 84-1308 and 84-1331, Revised Statutes Supplement, 2004; to create a health care account for state employees; to change contribution rates; and to repeal the original sections.

**LEGISLATIVE BILL 448.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.14, Reissue Revised Statutes of Nebraska, and section 77-2701.16, Revised Statutes Supplement, 2004; to redefine a term; to change provisions relating to a sales and use tax exemption; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 449.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to the Nebraska Scholarship Act; to amend section 85-1914, Revised Statutes Supplement, 2004; to change and eliminate provisions relating to the distribution of awards; and to repeal the original section.

**LEGISLATIVE BILL 450.** Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to trade practices; to amend section 87-210, Reissue Revised Statutes of Nebraska; to change provisions for trade name registration; and to repeal the original section.

**LEGISLATIVE BILL 451.** Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to secured transactions; to amend section 52-1312, Reissue Revised Statutes of Nebraska, and section 9-522, Uniform Commercial Code; to change provisions relating to the maintenance and destruction of records; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 452.** Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Combs, 32; Connealy, 16; Janssen, 15; Schimek, 27.

A BILL FOR AN ACT relating to cities and villages; to amend sections 19-4801 and 29-424, Revised Statutes Supplement, 2004; to change provisions relating to the issuance of citations for code violations; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 453.** Introduced by Cunningham, 40; Baker, 44; Stuthman, 22.

A BILL FOR AN ACT relating to medical radiography; to amend section 71-3519, Reissue Revised Statutes of Nebraska; to create an advisory committee; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 454.** Introduced by Combs, 32; Aguilar, 35; Baker, 44; Cornett, 45; Cudaback, 36; Cunningham, 40; Erdman, 47; Fischer, 43; Flood, 19; Friend, 10; Hudkins, 21; Janssen, 15; Jensen, 20; Kremer, 34; Langemeier, 23; McDonald, 41; Pahls, 31; Dw. Pedersen, 39; Redfield, 12; Schrock, 38; Smith, 48; Stuhr, 24; Wehrbein, 2.

A BILL FOR AN ACT relating to handguns; to amend section 28-1202, Reissue Revised Statutes of Nebraska; to adopt the Concealed Handgun Permit Act; to provide penalties; to harmonize provisions; to provide an operative date; to provide severability; and to repeal the original section.

**LEGISLATIVE BILL 455.** Introduced by Combs, 32; Aguilar, 35; Burling, 33; Cudaback, 36; Cunningham, 40; Erdman, 47; Foley, 29; Heidemann, 1; Kremer, 34; Langemeier, 23; Mines, 18; Pahls, 31; D. Pederson, 42; Redfield, 12; Schrock, 38; Smith, 48; Stuhr, 24; Synowiecki, 7.

A BILL FOR AN ACT relating to civil procedure; to prohibit civil actions based on weight gain or obesity in certain circumstances; to define terms; to provide applicability; and to provide a duty for the Revisor of Statutes.

**LEGISLATIVE BILL 456.** Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to streets and roads; to amend sections 66-4,148 and 66-6,109, Reissue Revised Statutes of Nebraska, and sections 66-4,145 and 66-4,146, Revised Statutes Supplement, 2004; to increase motor fuel taxes; to allocate revenue as prescribed; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 457.** Introduced by Cornett, 45; Aguilar, 35; Connealy, 16; Flood, 19; Kruse, 13; Schimek, 27; Stuthman, 22.

A BILL FOR AN ACT relating to driving under the influence; to amend section 60-6,197.03, Reissue Revised Statutes of Nebraska, and section 28-106, Revised Statutes Supplement, 2004; to change penalties relating to driving under the influence; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 458.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to telecommunications; to amend section 86-457, Revised Statutes Supplement, 2004; to change provisions relating to a wireless carrier surcharge; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 459.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1401, 49-1449, and 49-14,140, Reissue Revised Statutes of Nebraska; to require committees to pay registration fees; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 460.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to postsecondary education; to amend sections 85-9,177 to 85-9,182, Revised Statutes Supplement, 2004; to rename and change provisions relating to the Minority Scholarship Program Act; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 461.** Introduced by Kremer, 34; Aguilar, 35; McDonald, 41.

A BILL FOR AN ACT relating to political subdivisions; to amend sections 16-117 and 79-407, Reissue Revised Statutes of Nebraska; to authorize annexation of redevelopment project areas as prescribed; to define a term; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 462.** Introduced by D. Pederson, 42.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-146.02, Reissue Revised Statutes of Nebraska; to provide access to medical records as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 463.** Introduced by Cunningham, 40.

A BILL FOR AN ACT relating to the Employment Security Law; to amend sections 48-602 and 48-649, Reissue Revised Statutes of Nebraska; to change provisions relating to remuneration subject to tax and the combined tax rate; and to repeal the original sections.

**LEGISLATIVE BILL 464.** Introduced by Heidemann, 1; Aguilar, 35; Beutler, 28; Byars, 30; Combs, 32; Cornett, 45; Cudaback, 36; Cunningham, 40; Engel, 17; Foley, 29; Friend, 10; Howard, 9; Hudkins, 21; Jensen, 20; Johnson, 37; Kopplin, 3; Kremer, 34; Kruse, 13; Pahls, 31; Dw. Pedersen, 39; Price, 26; Raikes, 25; Schimek, 27; Smith, 48; Stuhr, 24.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-1,121, Reissue Revised Statutes of Nebraska; to change provisions relating to civil protective custody; and to repeal the original section.

**LEGISLATIVE BILL 465.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to insurance; to amend sections 44-371 and 44-1089, Reissue Revised Statutes of Nebraska; to change provisions relating to claims of creditors; and to repeal the original sections.

**LEGISLATIVE BILL 466.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to banks and banking; to amend section 8-143.01, Revised Statutes Supplement, 2004; to change provisions relating to credit report requirements of licensed executive officers; and to repeal the original section.

**LEGISLATIVE BILL 467.** Introduced by Byars, 30.

A BILL FOR AN ACT relating to schools; to amend sections 79-728, 79-761, 79-809, 79-810, 79-8,136, 79-1101, 79-1103, 79-1142, 79-1144, and 79-1310, Reissue Revised Statutes of Nebraska, and section 9-812, Revised Statutes Supplement, 2004; to adopt the Creating Essential Educational Opportunities for All Students Act; to change provisions relating to allocation of state lottery funds; to create the Beginning Teacher Mentoring and Induction Program; to change provisions relating to kindergarten programs, mentor teacher programs, fees, early childhood education grants, and special education funding; to create a fund; to eliminate the Excellence in Education Council and provisions relating to school technology funding and the School Technology Fund; to harmonize provisions; to repeal the original sections; and to outright repeal section 79-1328, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 468.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to retirement; to amend section 24-708, Revised Statutes Supplement, 2004; to change the retirement benefit for judges; and to repeal the original section.

**LEGISLATIVE BILL 469.** Introduced by Bourne, 8; D. Pederson, 42.

A BILL FOR AN ACT relating to guardianship; to amend sections 30-2201, 30-2601, 30-2627, and 30-2639, Revised Statutes Supplement, 2004; to adopt the Public Guardianship Act; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 470.** Introduced by Johnson, 37.

A BILL FOR AN ACT relating to roads; to provide funding for state highway system projects that meet economic development needs.

**LEGISLATIVE BILL 471.** Introduced by Loudon, 49; Baker, 44; Byars,

30; Combs, 32; Connealy, 16; Howard, 9; Hudkins, 21; Dw. Pedersen, 39; D. Pederson, 42; Price, 26; Redfield, 12; Schimek, 27; Thompson, 14.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,232, Reissue Revised Statutes of Nebraska; to permit a rotating or flashing amber light on a motor vehicle owned by or operated on behalf of a railroad as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 472.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2715.07, Reissue Revised Statutes of Nebraska, and section 77-2701, Revised Statutes Supplement, 2004; to provide an income tax credit for donations of perpetual conservation easements; to impose a fee on water wells; to harmonize provisions; to provide operative dates; and to repeal the original sections.

**LEGISLATIVE BILL 473.** Introduced by Heidemann, 1.

A BILL FOR AN ACT relating to elections; to amend section 32-610, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to political parties and filing for office; to repeal the original section; and to outright repeal section 32-718, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 474.** Introduced by Jensen, 20; Brown, 6; Mines, 18.

A BILL FOR AN ACT relating to political subdivisions; to amend sections 14-405, 19-905, and 23-165, Reissue Revised Statutes of Nebraska; to change provisions relating to zoning; and to repeal the original sections.

**LEGISLATIVE BILL 475.** Introduced by Schimek, 27.

A BILL FOR AN ACT relating to state government; to amend section 81-2701, Reissue Revised Statutes of Nebraska; to require a written notice under the State Government Effectiveness Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 476.** Introduced by Schimek, 27.

A BILL FOR AN ACT relating to unclaimed property; to amend section 69-1311, Reissue Revised Statutes of Nebraska; to change notice provisions for property presumed abandoned; and to repeal the original section.

**LEGISLATIVE BILL 477.** Introduced by Schimek, 27.

A BILL FOR AN ACT relating to elections; to amend sections 32-101 and 32-915, Reissue Revised Statutes of Nebraska; to provide for replacement

absentee ballots or provisional ballots as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 478.** Introduced by Cornett, 45; Aguilar, 35; Baker, 44; Brown, 6; Byars, 30; Combs, 32; Connealy, 16; Erdman, 47; Flood, 19; Foley, 29; Friend, 10; Janssen, 15; Jensen, 20; Johnson, 37; Kopplin, 3; Kruse, 13; Pahls, 31; Smith, 48; Synowiecki, 7; Thompson, 14.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Reissue Revised Statutes of Nebraska; to exclude military retirement benefits from income taxation; and to repeal the original section.

**LEGISLATIVE BILL 479.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to municipal economic development; to amend section 18-2709, Revised Statutes Supplement, 2004; to redefine qualifying business; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 480.** Introduced by Thompson, 14; Aguilar, 35; Brown, 6; Byars, 30; Foley, 29; Jensen, 20; Johnson, 37; Kruse, 13; Preister, 5; Price, 26; Raikes, 25; Redfield, 12; Schrock, 38.

A BILL FOR AN ACT relating to the Nebraska Clean Indoor Air Act; to amend sections 71-5701, 71-5702, 71-5703, 71-5704, 71-5708, 71-5710, and 71-5711, Reissue Revised Statutes of Nebraska, and section 71-5707, Revised Statutes Supplement, 2004; to define and redefine terms; to change provisions for smoking in public places; to provide an operative date; and to repeal the original sections.

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 17CA.** Introduced by Chambers, 11.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article V, section 30:

V-30 (1) A Justice or Judge of the Supreme Court or judge of any court of this state may be reprimanded, disciplined, censured, suspended without pay for a definite period of time, ~~not to exceed six months~~, or removed from office for (a) willful misconduct in office, (b) willful disregard of or failure to perform his or her duties, (c) habitual intemperance, (d) conviction of a crime involving moral turpitude, (e) disbarment as a member of the legal profession licensed to practice law in the State of Nebraska, or (f) conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or he or she may be retired for physical or mental disability

seriously interfering with the performance of his or her duties if such disability is determined to be permanent or reasonably likely to become permanent. Any citizen of the State of Nebraska may request the Commission on Judicial Qualifications to consider the qualifications of any Justice or Judge of the Supreme Court or other judge, and in such event the commission shall make such investigation as the commission deems necessary and shall, upon a finding of probable cause, reprimand such Justice or Judge of the Supreme Court or other judge or order a formal open hearing to be held before it concerning the reprimand, discipline, censure, suspension, removal, or retirement of such Justice or Judge of the Supreme Court or other judge. In the alternative or in addition, the commission may request the Supreme Court to appoint one or more special masters who shall be judges of courts of record to hold a formal open hearing to take evidence in any such matter, and to report to the commission. If, after formal open hearing, or after considering the record and report of the masters, the commission finds that the charges are established by clear and convincing evidence, it shall recommend to the Supreme Court that the Justice or Judge of the Supreme Court or other judge involved shall be reprimanded, disciplined, censured, suspended without pay for a definite period of time not to exceed six months, removed, or retired as the case may be.

(2) The Supreme Court shall review the record of the proceedings and in its discretion may permit the introduction of additional evidence. The Supreme Court shall make such determination as it finds just and proper, and may order the reprimand, discipline, censure, suspension, removal, or retirement of such Justice or Judge of the Supreme Court or other judge, or may wholly reject the recommendation. Upon an order for retirement, the Justice or Judge of the Supreme Court or other judge shall thereby be retired with the same rights and privileges as if he or she had retired pursuant to statute. Upon an order for removal, the Justice or Judge of the Supreme Court or other judge shall be removed from office, his or her salary shall cease from the date of such order, and he or she shall be ineligible for judicial office. Upon an order for suspension, the Justice or Judge of the Supreme Court or other judge shall draw no salary and shall perform no judicial functions during the period of suspension. Suspension shall not create a vacancy in the office of Justice or Judge of the Supreme Court or other judge.

(3) Upon order of the Supreme Court, a Justice or Judge of the Supreme Court or other judge shall be disqualified from acting as a Justice or Judge of the Supreme Court or other judge, without loss of salary, while there is pending (a) an indictment or information charging him or her in the United States with a crime punishable as a felony under Nebraska or federal law or (b) a recommendation to the Supreme Court by the Commission on Judicial Qualifications for his or her removal or retirement.

(4) In addition to the procedure set forth in subsections (1) and (2) of this section, on recommendation of the Commission on Judicial Qualifications or on its own motion, the Supreme Court (a) shall remove a Justice or Judge of the Supreme Court or other judge from office when in any court in the United States such justice or judge pleads guilty or no contest to a crime punishable as a felony under Nebraska or federal law, and (b) may suspend

a Justice or Judge of the Supreme Court or other judge from office without salary when in any court in the United States such justice or judge is found guilty of a crime punishable as a felony under Nebraska or federal law or of any other crime that involves moral turpitude. If his or her conviction is reversed, suspension shall terminate and he or she shall be paid his or her salary for the period of suspension. If he or she is suspended and his or her conviction becomes final the Supreme Court shall remove him or her from office.

~~(5) All papers filed with and proceedings before the commission or masters appointed by the Supreme Court pursuant to this section prior to a reprimand or formal open hearing shall be confidential. The filing of papers with and the testimony given before the commission or masters or the Supreme Court shall be deemed a privileged communication.~~

~~When the Commission on Judicial Qualifications determines that disciplinary action is warranted, whether it be a reprimand or otherwise, the Commission on Judicial Qualifications shall issue one or more short announcements confirming that a complaint has been filed; stating the subject and nature of the complaint, the disciplinary action recommended or reprimand issued, or the date of the hearing; clarifying the procedural aspects; and reciting the right of a judge to a fair hearing.~~

~~When the Commission on Judicial Qualifications determines that disciplinary action is not warranted, and the existence of any investigation or complaint has become publicly known, the judge against whom a complaint has been filed or investigation commenced may waive the confidentiality of papers and proceedings under this subsection.~~

The Supreme Court shall by rule provide for procedure under this section before the commission, the masters, and the Supreme Court.

(6) No Justice or Judge of the Supreme Court or other judge shall participate, as a member of the commission, or as a master, or as a member of the Supreme Court, in any proceedings involving his or her own reprimand, discipline, censure, suspension, removal, or retirement.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment relating to disciplinary actions for court judges that eliminates the six-month limitation for suspension of pay for judges and confidentiality restrictions for papers and proceedings.

For

Against.

Referred to the Reference Committee.

**LEGISLATIVE RESOLUTION 18CA.** Introduced by Beutler, 28.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article XI, section 1:

XI-1 No city, county, town, precinct, municipality, or other ~~sub-division~~subdivision of the state, shall ever become a subscriber to the capital stock, or owner of such stock, or any portion or interest therein of any railroad, or private corporation, or association, except that, notwithstanding any provision of a home rule charter: (1) The Legislature may authorize the funds of any city of the metropolitan or primary class available for such purpose to be invested in securities of the United States, in securities of the State of Nebraska, in the city's own securities, in securities of a county in which such city is located or a school district of such city, in securities of municipally owned and operated public utility property and plants of such city, or in the same manner as funds of the State of Nebraska are invested; and (2) the Legislature may authorize the funds of any city, county, town, precinct, municipality, or other subdivision of the state available for such purpose to be invested under the supervision and direction of a duly authorized state official such as the state investment officer in the same manner as funds of the State of Nebraska are invested.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to provide an exception by legislative authorization for cities of the metropolitan or primary class to invest in specified securities and to provide an exception by legislative authorization for any city, county, town, precinct, municipality, or other subdivision of the state to invest funds in the same manner as funds of the state are invested.

For

Against.

Referred to the Reference Committee.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator McDonald asked unanimous consent to have her name added as cointroducer to LB 100. No objections. So ordered.

Senators Baker, Brown, and Mines asked unanimous consent to have their names added as cointroducers to LB 273. No objections. So ordered.

Senator Cunningham asked unanimous consent to have his name added as cointroducer to LB 400. No objections. So ordered.

Senator Loudon asked unanimous consent to have his name added as cointroducer to LB 414. No objections. So ordered.

Senator Engel asked unanimous consent to have his name added as cointroducer to LBs 454 and 455. No objections. So ordered.

**WITHDRAW - Cointroducer**

Senator Fischer withdrew her name as cointroducer to LB 266.

**VISITORS**

Visitors to the Chamber were 14 students and professors from Doane College.

**ADJOURNMENT**

At 11:17 a.m., on a motion by Senator Raikes, the Legislature adjourned until 10:00 a.m., Friday, January 14, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



# **EIGHTH DAY - JANUARY 14, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, January 14, 2005

#### **PRAAYER**

The prayer was offered by Senator Dw. Pedersen.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Aguilar who was excused; and Senators Beutler, Preister, and Thompson who were excused until they arrive.

#### **CORRECTIONS FOR THE JOURNAL**

The Journal for the seventh day was approved.

#### **REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB 305	Health and Human Services (rereferred)
LB 379	Government, Military and Veterans Affairs
LB 380	Education
LB 381	Health and Human Services
LB 382	Health and Human Services
LB 383	Revenue
LB 384	Urban Affairs
LB 385	Judiciary
LB 386	Revenue
LB 387	Health and Human Services
LB 388	General Affairs
LB 389	Banking, Commerce and Insurance
LB 390	Natural Resources
LB 391	Education
LB 392	Appropriations

LB 393	Judiciary
LB 394	Business and Labor
LB 395	Business and Labor
LB 396	Judiciary
LB 397	Natural Resources
LB 398	Appropriations
LB 399	Revenue
LB 400	Transportation and Telecommunications
LB 401	Government, Military and Veterans Affairs
LB 402	Judiciary
LB 403	Judiciary
LB 404	Revenue
LB 405	General Affairs
LB 406	Urban Affairs
LB 407	Revenue
LB 408	Government, Military and Veterans Affairs
LB 409	Judiciary
LB 410	Judiciary
LB 411	Nebraska Retirement Systems
LB 412	Nebraska Retirement Systems
LB 413	Revenue
LB 414	Urban Affairs
LB 415	Business and Labor
LB 416	Health and Human Services
LB 417	Revenue
LB 418	Education

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

## RESOLUTIONS

### **LEGISLATIVE RESOLUTION 19.** Introduced by Stuthman, 22.

WHEREAS, the Lindsay Holy Family High School Eight Man-2 football team won the state championship with a thirty-six to eighteen victory over Mullen; and

WHEREAS, Holy Family has been in the title game four times in the past five years; and

WHEREAS, Holy Family finished the 2004 season undefeated and claimed its second state title since 2000; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Lindsay Holy Family High School Eight Man-2 football team be congratulated for its success.

2. That a copy of this resolution be sent to the Lindsay Holy Family High School Eight Man-2 football team and Coach Rusty Rautenberg.

Laid over.

**LEGISLATIVE RESOLUTION 20.** Introduced by Stuthman, 22.

WHEREAS, the Howells High School football team won the Class D-1 state championship with a forty-three to six victory over Overton; and

WHEREAS, this was Howells' fifth Class D-1 state championship; and

WHEREAS, Howells extended its winning streak to fifty games with this win; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Howells High School football team be congratulated for its success.

2. That a copy of this resolution be sent to the Howells High School football team and Coach Mike Speirs.

Laid over.

**LEGISLATIVE RESOLUTION 21.** Introduced by Stuthman, 22.

WHEREAS, the Humphrey St. Francis Flyers volleyball team won the Class D-1 state volleyball tournament with a 25-19, 22-25, 25-19, 25-17 victory over Fremont Bergan; and

WHEREAS, this was Humphrey St. Francis' second state title in five years; and

WHEREAS, this victory allowed Humphrey St. Francis to finish the season with a 21-3 record and a 15-match winning streak; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Humphrey St. Francis Flyers volleyball team be congratulated for its success.

2. That a copy of this resolution be sent to the Humphrey St. Francis Flyers volleyball team and Coach Dean Korus.

Laid over.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of January 13, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

American Communications Group, Inc.  
Nebraska Book Company

Belschner, Shanna  
Children and Family Coalition of Nebraska

Bruning, Deonne L.  
Northern Natural Gas

Crawford, Kristin  
American Council of Engineering Companies/Nebraska

Johnson, Larry A.  
Trucking Association, Nebraska

Johnson, Mary A.  
Ruth Mueller Robak LLC

King, Terry L.  
Better Nebraska Association

Krannawitter, Brian  
American Heart Association

Lamb, Amy  
Occupational Therapy Association, Nebraska

Lightner, James  
Public Employees, AFSCME Local 61, Nebraska Association of

Lowrey, Lon  
Novartis Pharmaceuticals Corporation

McClure, John  
Nebraska Public Power District

Radcliffe, Walter H. of Radcliffe & Associates  
Equitable Unemployment Compensation Committee

Ruth Mueller Robak LLC  
Consumer Healthcare Products Association

Sands, Shellyn  
Nebraska Association of Convention and Visitors Bureaus

Watson, Robert W.  
Fathers Rights Advocacy  
Gilroy Law Offices

Young, Lora  
Nebraska Travel Association

**NOTICE OF COMMITTEE HEARINGS**  
**Banking, Commerce and Insurance**  
Room 1507

LB 60	Monday, January 24, 2005	1:30 p.m.
LB 73	Monday, January 24, 2005	1:30 p.m.
LB 84	Monday, January 24, 2005	1:30 p.m.
LB 310	Monday, January 24, 2005	1:30 p.m.
LB 375	Monday, January 24, 2005	1:30 p.m.

(Signed) Mick Mines, Chairperson

**Transportation and Telecommunications**  
Room 1113

LB 274	Monday, January 24, 2005	1:30 p.m.
LB 275	Monday, January 24, 2005	1:30 p.m.
LB 276	Monday, January 24, 2005	1:30 p.m.
LB 277	Monday, January 24, 2005	1:30 p.m.
LB 249	Monday, January 24, 2005	1:30 p.m.
LB 76	Monday, January 24, 2005	1:30 p.m.
LB 251	Tuesday, January 25, 2005	1:30 p.m.
LB 284	Tuesday, January 25, 2005	1:30 p.m.
LB 69	Tuesday, January 25, 2005	1:30 p.m.
LB 70	Tuesday, January 25, 2005	1:30 p.m.

(Signed) Tom Baker, Chairperson

**COMMUNICATIONS**

Received petitions from the Douglas County Board of Commissioners adopted on January 11, 2005.

## REPORTS

The following reports were received by the Legislature:

### **Auditor of Public Accounts**

Attestation report of the Nebraska Legislative Council

### **Health and Human Services System**

Annual Report for the Year 2004 - Number of Licenses Suspended Under the License Suspension Act

## BILLS ON FIRST READING

The following bills were read for the first time by title:

**LEGISLATIVE BILL 481.** Introduced by Aguilar, 35; McDonald, 41; Pahls, 31; Stuhr, 24; Thompson, 14.

A BILL FOR AN ACT relating to controlled substances; to amend sections 28-401.01, 28-405, and 28-452, Revised Statutes Supplement, 2004; to change provisions and offenses involving ephedrine, pseudoephedrine, and phenylpropanolamine; to provide requirements for retailers as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 482.** Introduced by Mines, 18; at the request of the Governor.

A BILL FOR AN ACT relating to the Employment Expansion and Investment Incentive Act; to amend section 77-27,188, Reissue Revised Statutes of Nebraska; to change tax credit provisions; and to repeal the original section.

**LEGISLATIVE BILL 483.** Introduced by Pahls, 31; Combs, 32; Cornett, 45; Wehrbein, 2.

A BILL FOR AN ACT relating to law enforcement; to amend sections 33-117, 69-2404, and 83-424, Reissue Revised Statutes of Nebraska; to change sheriff's fees and handgun certificate fees; and to repeal the original sections.

**LEGISLATIVE BILL 484.** Introduced by Business and Labor Committee: Cunningham, 40, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5; Schimek, 27.

A BILL FOR AN ACT relating to the Employment Security Law; to amend sections 48-601, 48-602, 48-619, 48-627, 48-628, 48-648, 48-648.01, 48-649, 48-654, and 48-664, Reissue Revised Statutes of Nebraska; to change and provide provisions relating to tax avoidance, wage determination, fund withdrawals, benefit eligibility, and tax liability and rate; to provide for electronic payments, reports, and reimbursements by employers as prescribed; to provide penalties; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 485.** Introduced by Business and Labor Committee: Cunningham, 40, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5; Schimek, 27.

A BILL FOR AN ACT relating to tort claims; to amend sections 81-8,211, 81-8,224, 81-8,225, and 81-8,239.02, Reissue Revised Statutes of Nebraska; to change state tort claim approval requirements and payment provisions; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 486.** Introduced by Business and Labor Committee: Cunningham, 40, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5; Schimek, 27.

A BILL FOR AN ACT relating to employment security law; to amend section 48-649, Reissue Revised Statutes of Nebraska; to change provisions relating to the combined tax rate; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 487.** Introduced by Business and Labor Committee: Cunningham, 40, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5; Schimek, 27.

A BILL FOR AN ACT relating to employment security law; to amend section 48-601, Reissue Revised Statutes of Nebraska; to provide for a solvency surcharge as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 488.** Introduced by Business and Labor Committee: Cunningham, 40, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5; Schimek, 27.

A BILL FOR AN ACT relating to employment security law; to amend sections 48-601, 48-602, 48-624, and 48-669, Reissue Revised Statutes of Nebraska; to redefine terms; to change weekly benefit and combined tax provisions; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 489.** Introduced by Business and Labor Committee: Cunningham, 40, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5; Schimek, 27.

A BILL FOR AN ACT relating to elevator safety; to amend section 48-418.09, Reissue Revised Statutes of Nebraska; to change provisions relating to elevator inspections; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 490.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to public records; to amend section 84-712.01, Revised Statutes Supplement, 2004; to regulate access to certain geographic computer data bases; and to repeal the original section.

**LEGISLATIVE BILL 491.** Introduced by Cudaback, 36.

A BILL FOR AN ACT relating to liens; to amend sections 52-1001, 52-1003, 52-1004, 77-3902, 77-3903, and 77-3904, Reissue Revised Statutes of Nebraska, and section 9-530, Uniform Commercial Code; to provide for the filing of state and federal tax liens on real property with the Secretary of State; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 492.** Introduced by Kremer, 34.

A BILL FOR AN ACT relating to agriculture; to amend sections 25-1093 and 88-547, Reissue Revised Statutes of Nebraska, and sections 88-525 and 88-527, Revised Statutes Supplement, 2004; to change and provide provisions of the Grain Warehouse Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 493.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to retirement; to amend section 79-907, Revised Statutes Supplement, 2004; to change provisions relating to statements for school employees; and to repeal the original section.

**LEGISLATIVE BILL 494.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to retirement; to amend sections 23-2309.01, 23-2310.05, 84-1310.01, and 84-1311.03, Revised Statutes Supplement, 2004; to provide additional retirement account investment options; to change provisions relating to defined contribution benefits; to eliminate obsolete language; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 495.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to retirement; to amend section 79-947.01, Revised Statutes Supplement, 2004; to provide a medical cost-of-living adjustment to school employee retirement benefits; and to repeal the original section.

**LEGISLATIVE BILL 496.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to public funds; to amend section 77-2365.01, Revised Statutes Supplement, 2004; to change provisions relating to deposits with certain credit unions; and to repeal the original section.

**LEGISLATIVE BILL 497.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to postsecondary education; to adopt the Nebraska Scholarship for Academic Achievement Program Act; and to provide an operative date.

**LEGISLATIVE BILL 498.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to economic development; to reenact the Nebraska Venture Capital Forum Act; and to outright repeal sections 81-12,106 to 81-12,116, Revised Statutes Supplement, 2004.

**SPEAKER'S ANNOUNCEMENT**

Pursuant to Rule 4, Section 8, LR 15 was referred to the Reference Committee.

**NOTICE OF COMMITTEE HEARINGS**

**Education**  
Room 1525

LB 197	Monday, January 24, 2005	1:30 p.m.
LB 198	Monday, January 24, 2005	1:30 p.m.
LB 199	Monday, January 24, 2005	1:30 p.m.
LB 418	Monday, January 24, 2005	1:30 p.m.

(Signed) Ron Raikes, Chairperson

**Natural Resources**  
Room 1525

LB 31	Wednesday, January 26, 2005	1:30 p.m.
LB 32	Wednesday, January 26, 2005	1:30 p.m.
LB 137	Wednesday, January 26, 2005	1:30 p.m.
LB 359	Wednesday, January 26, 2005	1:30 p.m.
LB 140	Wednesday, January 26, 2005	1:30 p.m.
LB 8	Thursday, January 27, 2005	1:30 p.m.
LB 336	Thursday, January 27, 2005	1:30 p.m.
LB 340	Thursday, January 27, 2005	1:30 p.m.

(Signed) Ed Schrock, Chairperson

**Business and Labor**

Room 2102

LB 236	Monday, January 24, 2005	1:30 p.m.
LB 238	Monday, January 24, 2005	1:30 p.m.
LB 12	Monday, January 24, 2005	1:30 p.m.
LB 13	Monday, January 24, 2005	1:30 p.m.
LB 10	Monday, January 24, 2005	1:30 p.m.
LB 122	Monday, January 24, 2005	1:30 p.m.
LB 99	Monday, January 24, 2005	1:30 p.m.

(Signed) Douglas Cunningham, Chairperson

**BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 499.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2101.01, Reissue Revised Statutes of Nebraska; to change calculations and eliminate provisions related to estate tax; to repeal the original section; to outright repeal section 77-2103, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**LEGISLATIVE BILL 500.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to economic development; to amend section 77-2703.01, Revised Statutes Supplement, 2004; to adopt the Entertainment and Tourism Development Act; to harmonize provisions; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 501.** Introduced by Combs, 32.

A BILL FOR AN ACT relating to public meetings; to amend section 84-1413, Reissue Revised Statutes of Nebraska; to change provisions relating to the writing of minutes; and to repeal the original section.

**LEGISLATIVE BILL 502.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend section 79-1007.01, Reissue Revised Statutes of Nebraska, and sections 77-3442 and 79-1007.02, Revised Statutes Supplement, 2004; to change provisions relating to average formula cost per student; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 503.** Introduced by Nebraska Retirement Systems

Committee: Stuhr, 24, Chairperson; Bourne, 8; Erdman, 47; Price, 26;.

A BILL FOR AN ACT relating to state officials; to amend sections 72-1238, 72-1239, 72-1243, 79-906, and 84-1309.01, Reissue Revised Statutes of Nebraska, and sections 23-2312, 24-704, 81-2021, 84-1305.01, 84-1502, 84-1503, 84-1503.03, and 84-1512, Revised Statutes Supplement, 2004; to change provisions relating to membership, per diems, and powers and duties of the Nebraska Investment Council; to change provisions relating to the Public Employees Retirement Board and director of the retirement systems; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 504.** Introduced by Smith, 48; Erdman, 47; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to jails; to amend section 47-123, Reissue Revised Statutes of Nebraska; to change provisions relating to good-time credit; and to repeal the original section.

**LEGISLATIVE BILL 505.** Introduced by Erdman, 47; Baker, 44; Brown, 6; Burling, 33; Byars, 30; Combs, 32; Cunningham, 40; Flood, 19; Foley, 29; Friend, 10; Janssen, 15; Jensen, 20; Louden, 49; Dw. Pedersen, 39; Redfield, 12; Smith, 48; Synowiecki, 7.

A BILL FOR AN ACT relating to age of majority; to amend sections 9-255.09, 9-334, 9-633, 20-403, 21-1724, 21-1781, 28-319, 29-401, 29-2270, 30-2412, 32-602, 42-371.01, 43-104.09, 43-117.01, 43-245, 43-247, 43-284.02, 43-289, 43-290, 43-294, 43-412, 43-504, 43-2101, 43-2903, 43-3703, 44-5238, 48-122.01, 48-124, 49-801, 68-1723, 68-1724, 71-1,281, 71-1,348, 71-20,120, 76-2229.01, 76-2230, 76-2231.01, 76-2232, 79-267, 79-296, 81-885.13, 81-1916, 81-1917, 81-1936, and 81-2036, Reissue Revised Statutes of Nebraska, and sections 9-255.06, 23-1824, 25-1601, 25-1628, 25-21,271, 28-318, 28-320.01, 28-457, 30-2209, 30-3402, 30-3502, 64-101, 71-6039.01, and 81-2026, Revised Statutes Supplement, 2004; to change the age of majority from nineteen to eighteen years of age as prescribed; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 506.** Introduced by Erdman, 47; Baker, 44; Burling, 33; Byars, 30; Combs, 32; Connealy, 16; Cudaback, 36; Cunningham, 40; Engel, 17; Fischer, 43; Flood, 19; Friend, 10; Hudkins, 21; Jensen, 20; Kremer, 34; Langemeier, 23; Louden, 49; Mines, 18; Redfield, 12; Schrock, 38; Smith, 48; Stuhr, 24; Stuthman, 22; at the request of the Governor.

A BILL FOR AN ACT relating to the death penalty; to amend sections 29-2532, 29-2533, 29-2542, 29-2543, and 29-2544, Reissue Revised Statutes of Nebraska, and section 29-2524, Revised Statutes Supplement, 2004; to change the mode of inflicting the death penalty; to harmonize provisions; to provide severability; to repeal the original sections; and to

declare an emergency.

**LEGISLATIVE BILL 507.** Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to presentence investigations; to amend section 29-2261, Revised Statutes Supplement, 2004; to change and eliminate provisions relating to inspection and examination; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 508.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to water wells; to amend sections 46-1404 and 46-1405, Reissue Revised Statutes of Nebraska; to change provisions relating to costs of decommissioning illegal water wells; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 509.** Introduced by Smith, 48; Schimek, 27.

A BILL FOR AN ACT relating to counties; to amend section 23-2537, Reissue Revised Statutes of Nebraska; to change personnel policy board membership provisions; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 510.** Introduced by Combs, 32; Burling, 33; Cunningham, 40; Kremer, 34; Redfield, 12.

A BILL FOR AN ACT relating to employment; to provide immunity in actions relating to job references; and to define terms.

**LEGISLATIVE BILL 511.** Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to infants and juveniles; to amend section 43-536, Reissue Revised Statutes of Nebraska; to change provisions relating to child care reimbursement; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 512.** Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to elections; to amend section 32-1524, Reissue Revised Statutes of Nebraska; to change provisions relating to activities prohibited near polling places; to provide duties; and to repeal the original section.

**LEGISLATIVE BILL 513.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to property tax levies; to amend section 79-1081, Reissue Revised Statutes of Nebraska, and section 77-3442, Revised Statutes Supplement, 2004; to change provisions relating to school building levies; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 514.** Introduced by Dw. Pedersen, 39; Janssen, 15.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701.11, Reissue Revised Statutes of Nebraska; to exempt certain delivery charges from sales and use taxes; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 515.** Introduced by D. Pederson, 42; Cunningham, 40; Engel, 17; Heidemann, 1; Kruse, 13; Loudon, 49; Smith, 48.

A BILL FOR AN ACT relating to state colleges; to amend section 85-316, Reissue Revised Statutes of Nebraska; to change provisions relating to funds; and to repeal the original section.

**LEGISLATIVE BILL 516.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to telecommunications service; to amend section 86-420, Revised Statutes Supplement, 2004; to provide powers and immunity from liability for the Public Service Commission; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 517.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to livestock; to amend sections 54-179, 54-186, 54-191, 54-1,108, 54-1,110 to 54-115, 54-1,117 to 54-1,120, 54-1,122.01, 54-415, and 54-1183, Reissue Revised Statutes of Nebraska; to eliminate brand inspection areas; to make the Livestock Brand Act applicable statewide; to provide an operative date; to repeal the original sections; and to outright repeal sections 54-175 and 54-1,109, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 518.** Introduced by Dw. Pedersen, 39; Connealy, 16; Janssen, 15; Kopplin, 3; Langemeier, 23; Pahls, 31.

A BILL FOR AN ACT relating to municipalities; to provide for consolidation of cities of the first class with cities of the second class or villages; and to provide duties to city councils or village boards.

**LEGISLATIVE BILL 519.** Introduced by Brown, 6.

A BILL FOR AN ACT relating to political subdivisions; to amend section 49-1499.03, Reissue Revised Statutes of Nebraska; to change and provide procedures for potential conflicts of interest for certain officials; and to repeal the original section.

**LEGISLATIVE BILL 520.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections

77-4105 and 77-4106, Reissue Revised Statutes of Nebraska; to change provisions relating to the Employment and Investment Growth Act; and to repeal the original sections.

**LEGISLATIVE BILL 521.** Introduced by Byars, 30; Combs, 32; Engel, 17; Schimek, 27.

A BILL FOR AN ACT relating to the Developmental Disabilities Services Act; to amend section 83-1201, Reissue Revised Statutes of Nebraska, and section 83-1202.01, Revised Statutes Supplement, 2004; to state intent; to provide powers and duties; to provide requirements for state funding as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 522.** Introduced by Byars, 30; Cunningham, 40; Stuthman, 22.

A BILL FOR AN ACT relating to the practice of barbering; to amend section 71-208.02, Reissue Revised Statutes of Nebraska; to change requirements for barber instructors and assistant barber instructors; to eliminate a requirement for new barber schools; to harmonize provisions; to repeal the original section; and to outright repeal section 71-207.02, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 523.** Introduced by Byars, 30; Combs, 32.

A BILL FOR AN ACT relating to natural disasters; to amend section 81-8,297, Reissue Revised Statutes of Nebraska; to authorize claims against the state for certain property tax; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 524.** Introduced by Cunningham, 40; Burling, 33; Combs, 32.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-120, Reissue Revised Statutes of Nebraska; to change provisions relating to selection of a physician; and to repeal the original section.

**LEGISLATIVE BILL 525.** Introduced by Engel, 17.

A BILL FOR AN ACT relating to public records; to amend section 84-1205.03, Reissue Revised Statutes of Nebraska; to change provisions relating to electronic access to public records; to provide duties; and to repeal the original section.

**LEGISLATIVE BILL 526.** Introduced by Connealy, 16; Cunningham, 40; Synowiecki, 7.

A BILL FOR AN ACT relating to ethanol; to amend sections 66-1344,

66-1344.01, 66-1345, 66-1345.01, and 66-1519, Revised Statutes Supplement, 2004; to provide an ethanol production tax incentive; to change an excise tax rate; to transfer funds; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 527.** Introduced by Connealy, 16; Cornett, 45; Howard, 9; Kruse, 13; Pahls, 31; Dw. Pedersen, 39; Synowiecki, 7.

A BILL FOR AN ACT relating to postsecondary education; to adopt the In the Line of Duty Dependent Education Act; and to provide severability.

**LEGISLATIVE BILL 528.** Introduced by Connealy, 16.

A BILL FOR AN ACT relating to municipalities; to amend sections 16-318 and 17-606, Reissue Revised Statutes of Nebraska; to change provisions relating to city and village treasurers; and to repeal the original sections.

**LEGISLATIVE BILL 529.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to courts; to amend sections 7-111, 22-417, 23-2504, 24-345, 24-507, 24-508, 24-509, 24-519, 24-520, 24-1002, 29-103, 29-403, 29-812, 29-3901, 30-2218, 33-106, 33-106.02, 33-123 to 33-125, 42-108, 43-2,123, 43-512.05, 49-502, 49-801, 72-240.14, 76-706, 76-723, and 77-2019, Reissue Revised Statutes of Nebraska, and sections 11-119, 11-125, 11-126, 23-120, 23-121, 23-1114.03 to 23-1114.06, 23-2518, 24-228, 24-513, 29-3921, 30-2402, and 33-156, Revised Statutes Supplement, 2004; to provide for judicial reform; to transition the office of clerk of the district court from an elected county-reimbursed position to an appointed state-reimbursed position; to create the position of clerk of the courts; to change provisions relating to district courts, county courts, juvenile courts, and clerk magistrates; to increase fees and change distribution; to state intent; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal section 32-524, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 530.** Introduced by General Affairs Committee: Janssen, 15, Chairperson; Connealy, 16; Erdman, 47; Friend, 10; Wehrbein, 2.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-132, 53-164.01, and 53-165, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to retail license considerations and reports; to harmonize provisions; to repeal the original sections; and to outright repeal section 53-167.04, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 531.** Introduced by Fischer, 43; Burling, 33; Cunningham, 40; Erdman, 47; Kremer, 34; Schrock, 38; Stuthman, 22.

A BILL FOR AN ACT relating to agriculture; to authorize a livestock premises and animal identification system as prescribed; and to provide a duty for the Revisor of Statutes.

**LEGISLATIVE BILL 532.** Introduced by Burling, 33; Cunningham, 40; Heidemann, 1; Kremer, 34; Stuthman, 22.

A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to amend sections 48-106 and 48-145.01, Reissue Revised Statutes of Nebraska; to change provisions relating to coverage of the act; to change a notice requirement for exempt employers; to provide and change provisions relating to penalties; and to repeal the original sections.

**LEGISLATIVE BILL 533.** Introduced by Banking, Commerce and Insurance Committee: Mines, 18; Chairperson; Flood, 19; Johnson, 37; Langemeier, 23; Louden, 49; Pahls, 31; Redfield, 12.

A BILL FOR AN ACT relating to banking and finance; to amend sections 8-135, 8-318, 8-320, 8-385, 8-702, 45-346, 45-348, 45-350, 45-703 to 45-707, 45-711, 45-910, 45-1001, 45-1005, 45-1006, 45-1013, 45-1024, 45-1032, 45-1033, and 45-1055, Reissue Revised Statutes of Nebraska, and sections 8-113, 8-115.01, 8-116.01, 8-120, 8-124, 8-148, 8-157, 8-183.04, 8-1,140, 8-206, 8-213, 8-234, 8-305, 8-331, 8-355, 8-602, 8-701, 8-1006, 8-2401, 21-1725.01, 21-17,102, and 21-17,115, Revised Statutes Supplement, 2004; to change provisions relating to banking, trust companies, and building and loan associations; to revise powers of state-chartered banks, building and loan associations, and credit unions; to change and provide fees; to restrict third-party use of financial institution trademarks and tradenames for marketing purposes as prescribed; to change provisions relating to deposit insurance, accounts of minors, state-federal cooperation, sales of checks, credit card banks, credit unions, installment sales, mortgage bankers, delayed deposit services, and installment loans; to provide for administrative fines; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide operative dates; to repeal the original sections; to outright repeal section 8-385, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**LEGISLATIVE BILL 534.** Introduced by Synowiecki, 7; Combs, 32; Johnson, 37; Price, 26.

A BILL FOR AN ACT relating to the Nebraska Mental Health Commitment Act; to amend section 71-906, Revised Statutes Supplement, 2004; to redefine a term; and to repeal the original section.

**LEGISLATIVE BILL 535.** Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-310, Reissue Revised Statutes of Nebraska, and section 28-323, Revised Statutes Supplement, 2004; to change provisions relating to assault in the

third degree and domestic assault in the third degree; and to repeal the original sections.

**LEGISLATIVE BILL 536.** Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to criminal procedure; to amend section 53-101, Reissue Revised Statutes of Nebraska; to provide for detaining a minor attempting to purchase alcoholic liquor; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 537.** Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to correctional services; to amend section 83-181, Reissue Revised Statutes of Nebraska; to define a term; to provide for copayments for health care services as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 538.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to criminal justice; to amend sections 28-439 to 28-441, 28-445, 28-929, 28-930, 28-1439.02 to 28-1439.05, 37-1299, 37-12,102, 47-621 to 47-627, 47-630, 47-632, 60-1901, 60-1903.01, 71-1,148, 81-2004.05, and 83-4,142, Reissue Revised Statutes of Nebraska, and sections 28-431, 28-442, 28-931, 29-2246, 29-2252, 29-2257, 29-2258, 29-2262.06, 81-1423, 81-1425, 83-1,102, and 83-4,143, Revised Statutes Supplement, 2004; to change penalties for assaulting an officer; to change provisions relating to forfeiture and seizure of property and money involving drug offenses, probation, intensive supervision probation, community corrections, parole, and incarceration work camps; to require fees as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 539.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Nebraska Commission on Law Enforcement and Criminal Justice.

**LEGISLATIVE BILL 540.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to the courts; to amend section 24-201.01, Revised Statutes Supplement, 2004; to change judges' salary provisions; to eliminate obsolete provisions; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 541.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to county court judgeships; to amend section 24-503, Revised Statutes Supplement, 2004; to change the number of judges in specified districts; to provide an operative date; to repeal the

original section; and to declare an emergency.

**LEGISLATIVE BILL 542.** Introduced by Burling, 33; Baker, 44; Bourne, 8; Combs, 32; Erdman, 47; Janssen, 15; Kremer, 34; Louden, 49; Price, 26; Schrock, 38; Stuhr, 24; Stuthman, 22; Synowiecki, 7.

A BILL FOR AN ACT relating to revenue and taxation; to create the Tax Policy Reform Commission; to provide powers and duties; and to declare an emergency.

**LEGISLATIVE BILL 543.** Introduced by Wehrbein, 2; Bourne, 8; Brown, 6; Burling, 33; Erdman, 47; Johnson, 37; Kremer, 34; Schrock, 38; Stuhr, 24; Stuthman, 22; at the request of the Governor.

A BILL FOR AN ACT relating to economic development; to amend section 77-2715.07, Reissue Revised Statutes of Nebraska; to adopt the Certified Local Investment Fund Act; to provide an investment tax credit; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 544.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to public officials; to eliminate a requirement that public officials not accept plans which are not in accordance with the Geologists Regulation Act; and to outright repeal section 81-3538, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 545.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to insurance; to amend section 48-118, Reissue Revised Statutes of Nebraska; to change subrogation rights for health insurance and workers' compensation insurance; and to repeal the original section.

**LEGISLATIVE BILL 546.** Introduced by Brown, 6; Bourne, 8; Burling, 33; Byars, 30; Cornett, 45; Foley, 29; Friend, 10; Hudkins, 21; Jensen, 20; Johnson, 37; Kopplin, 3; Kremer, 34; Mines, 18; Pahls, 31; Dw. Pedersen, 39; D. Pederson, 42; Price, 26; Schimek, 27; Smith, 48; Stuhr, 24; Thompson, 14; Wehrbein, 2.

A BILL FOR AN ACT relating to economic development; to adopt the Nebraska Opportunity Zone Act; to create the Nebraska Innovation Zone Commission; and to provide powers and duties.

## RESOLUTION

**LEGISLATIVE RESOLUTION 22CA.** Introduced by Brashear, 4.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article VII, section 5:

VII-5 (1) Except as provided in subsections (2) and (3) of this section, all fines, penalties, and license money arising under the general laws of the state, except fines and penalties for violation of laws prohibiting the overloading of vehicles used upon the public roads and highways of this state, shall belong and be paid over to the counties respectively where the same may be levied or imposed, and all fines, penalties, and license money arising under the rules, bylaws, or ordinances of cities, villages, precincts, or other municipal subdivision less than a county shall belong and be paid over to the same respectively. All such fines, penalties, and license money shall be appropriated exclusively to the use and support of the common schools in the respective subdivisions where the same may accrue, except that all fines and penalties for violation of laws prohibiting the overloading of vehicles used upon the public roads and highways shall be placed as follows: ~~Seventy-five per cent~~Seventy-five percent in a fund for state highways and ~~twenty-five per cent~~twenty-five percent to the county general fund where the fine or penalty is paid.

(2) ~~Fifty per cent~~Seventy-five percent of all money forfeited or seized pursuant to enforcement of the drug laws shall belong and be paid over to the counties for drug enforcement purposes as the Legislature may provide.

(3) Law enforcement agencies may use conveyances forfeited pursuant to enforcement of the drug laws as the Legislature may provide. Upon the sale of such conveyances, the proceeds shall be appropriated exclusively to the use and support of the common schools as provided in subsection (1) of this section.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to change the distribution of money forfeited and seized pursuant to enforcement of drug laws.

For

Against.

Referred to the Reference Committee.

### ANNOUNCEMENT

The Building Maintenance Committee elected Senator Thompson as Chairperson and Senator Connealy as Vice Chairperson.

### MOTION - Print in Journal

Senator Chambers filed the following motion to LR 17CA:  
Withdraw LR 17CA

**NOTICE OF COMMITTEE HEARINGS****Revenue**  
Room 1524

LB 28	Friday, January 21, 2005	1:30 p.m.
LB 159	Friday, January 21, 2005	1:30 p.m.
LB 334	Friday, January 21, 2005	1:30 p.m.
LB 404	Friday, January 21, 2005	1:30 p.m.
LB 383	Friday, January 21, 2005	1:30 p.m.

(Signed) David Landis, Chairperson

**General Affairs**  
Room 1510

LB 262	Monday, January 24, 2005	1:30 p.m.
LB 287	Monday, January 24, 2005	1:30 p.m.
LB 355	Monday, January 24, 2005	1:30 p.m.
LB 211	Monday, January 24, 2005	1:30 p.m.

Monday, January 24, 2005	1:30 p.m.
Vicki P. Bromm - Nebraska Arts Council	
David Catalan - Nebraska Arts Council	
Murray H. Newman - Nebraska Arts Council	
Germelina Salumbides - Nebraska Arts Council	
Richard J. Vierk - Nebraska Arts Council	
Donna Woods - Nebraska Arts Council	

(Signed) Ray Janssen, Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Price asked unanimous consent to have her name added as cointroducer to LBs 6 and 332. No objections. So ordered.

Senator Hudkins asked unanimous consent to have her name added as cointroducer to LB 28. No objections. So ordered.

Senator Raikes asked unanimous consent to have his name added as cointroducer to LB 47. No objections. So ordered.

Senator Cunningham asked unanimous consent to have his name added as cointroducer to LB 404. No objections. So ordered.

Senator Howard asked unanimous consent to have her name added as cointroducer to LBs 64 and 417. No objections. So ordered.

Senator Thompson asked unanimous consent to have her name added as cointroducer to LB 445. No objections. So ordered.

Senator Kopplin asked unanimous consent to have his name added as cointroducer to LB 500. No objections. So ordered.

Senator Bourne asked unanimous consent to have his name added as cointroducer to LB 417. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Elizabeth Pozzy from Omaha Central High School; and Brenda and Ryan Semin from Lincoln.

### **ADJOURNMENT**

At 11:14 a.m., on a motion by Senator Erdman, the Legislature adjourned until 11:00 a.m., Tuesday, January 18, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



# **NINTH DAY - JANUARY 18, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, January 18, 2005

#### **PRAYER**

The prayer was offered by Pastor Joann Kramer, St. John Lutheran Church, Beatrice.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 11:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Combs and Fischer who were excused; and Senator Price who was excused until she arrives.

#### **CORRECTIONS FOR THE JOURNAL**

The Journal for the eighth day was approved.

#### **REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB 346	Agriculture (rereferred)
LB 419	Judiciary
LB 420	Business and Labor
LB 421	Appropriations
LB 422	Appropriations
LB 423	Appropriations
LB 424	Appropriations
LB 425	Appropriations
LB 426	Appropriations
LB 427	Appropriations
LB 428	Appropriations
LB 429	Judiciary
LB 430	General Affairs
LB 431	Judiciary

LB 432	Government, Military and Veterans Affairs
LB 433	Business and Labor
LB 434	Business and Labor
LB 435	Business and Labor
LB 436	Business and Labor
LB 437	Judiciary
LB 438	Transportation and Telecommunications
LB 439	Agriculture
LB 440	Agriculture
LB 441	Agriculture
LB 442	Business and Labor
LB 443	Government, Military and Veterans Affairs
LB 444	Judiciary
LB 445	Health and Human Services
LB 446	Judiciary
LB 447	Nebraska Retirement Systems
LB 448	Revenue
LB 449	Education
LB 450	Banking, Commerce and Insurance
LB 451	Government, Military and Veterans Affairs
LB 452	Urban Affairs
LB 453	Health and Human Services
LB 454	Judiciary
LB 455	Judiciary
LB 456	Revenue
LB 457	Judiciary
LB 458	Transportation and Telecommunications
LB 459	Government, Military and Veterans Affairs
LB 460	Education
LB 461	Urban Affairs
LB 462	Business and Labor
LB 463	Business and Labor
LB 464	Judiciary
LB 465	Banking, Commerce and Insurance
LB 466	Banking, Commerce and Insurance
LB 467	Education
LB 468	Nebraska Retirement Systems
LB 469	Judiciary
LB 470	Transportation and Telecommunications
LB 471	Transportation and Telecommunications
LB 472	Revenue
LB 473	Government, Military and Veterans Affairs
LB 474	Government, Military and Veterans Affairs
LB 475	Government, Military and Veterans Affairs
LB 476	Government, Military and Veterans Affairs
LB 477	Government, Military and Veterans Affairs
LB 478	Revenue
LB 479	Urban Affairs
LB 480	Health and Human Services
LR 17CA	Judiciary

LR 18CA Urban Affairs

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

**NOTICE OF COMMITTEE HEARING**  
**Education**  
Room 1525

LB 129	Tuesday, January 25, 2005	1:30 p.m.
LB 141	Tuesday, January 25, 2005	1:30 p.m.
LB 223	Tuesday, January 25, 2005	1:30 p.m.
LB 229	Tuesday, January 25, 2005	1:30 p.m.
LB 378	Tuesday, January 25, 2005	1:30 p.m.

(Signed) Ron Raikes, Chairperson

**ANNOUNCEMENT**

The Legislative Performance Audit Committee elected Senator Beutler as Chairperson and Senator Price as Vice Chairperson.

**MOTION - Print in Journal**

Senator Thompson filed the following motion to LB 203:  
Withdraw LB 203

**BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 547.** Introduced by Johnson, 37; Jensen, 20.

A BILL FOR AN ACT relating to the Engineers and Architects Regulation Act; to amend sections 81-3428 and 81-3442, Reissue Revised Statutes of Nebraska; to provide additional members for the Board of Engineers and Architects as prescribed; to change intent requirements for certain penalties; and to repeal the original sections.

**LEGISLATIVE BILL 548.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to health care; to amend sections 71-7607, 71-7608, and 71-7611, Revised Statutes Supplement, 2004; to change and eliminate provisions relating to credit and transfers of funds, legislative intent, certain federal actions, reports on health care access and expenditures, and funds; to repeal the original sections; to outright repeal sections 71-7601 to 71-7604, 71-7609, and 71-7610, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**LEGISLATIVE BILL 549.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to health care; to require a response plan regarding prescription drug benefits under the federal Medicare program; and to provide a termination date.

**LEGISLATIVE BILL 550.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to public health and welfare; to state findings and intent; to require a plan for financial and other assistance for community health centers and emergency medical services; and to provide a termination date.

**LEGISLATIVE BILL 551.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to the Nebraska Behavioral Health Services Act; to amend sections 71-813, 71-815, 71-816, and 71-818, Revised Statutes Supplement, 2004; to change provisions relating to membership on a council, a commission, and advisory committees; and to repeal the original sections.

**LEGISLATIVE BILL 552.** Introduced by Schrock, 38; Jensen, 20.

A BILL FOR AN ACT relating to natural resources districts; to authorize issuance of bonds; and to provide for acquisition of rights-of-way.

**LEGISLATIVE BILL 553.** Introduced by Schrock, 38; Beutler, 28.

A BILL FOR AN ACT relating to natural resources districts; to amend sections 2-3213 and 2-3214, Reissue Revised Statutes of Nebraska; to change provisions relating to election of directors; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 554.** Introduced by Beutler, 28; Redfield, 12.

A BILL FOR AN ACT relating to labor; to amend sections 48-1203, 48-1203.01, and 48-1206, Reissue Revised Statutes of Nebraska; to change minimum wage and training wage provisions; to change penalty provisions; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 555.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to streets and roads; to amend sections 39-2401, 66-4,148, and 66-6,109, Reissue Revised Statutes of Nebraska, and sections 66-4,145, 66-4,146, and 66-4,147, Revised Statutes Supplement, 2004; to create a fund; to increase motor fuels taxes; to allocate revenue for street and road purposes as prescribed; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 556.** Introduced by Beutler, 28; Schrock, 38.

A BILL FOR AN ACT relating to the University of Nebraska; to amend section 85-115, Reissue Revised Statutes of Nebraska; to change provisions relating to the purchase of required textbooks and supplies; and to repeal the original section.

**LEGISLATIVE BILL 557.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Nebraska Visitors Development Act; to amend section 81-1258, Reissue Revised Statutes of Nebraska, and section 81-1255, Revised Statutes Supplement, 2004; to change permitted uses of lodging tax revenue; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 558.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to railroad transportation safety districts; to amend section 74-1307, Reissue Revised Statutes of Nebraska; to change provisions relating to bond issuance; and to repeal the original section.

**LEGISLATIVE BILL 559.** Introduced by Brown, 6.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-4,111.01, Reissue Revised Statutes of Nebraska; to provide and change provisions relating to personal information on an operator's license or state identification card; and to repeal the original section.

**LEGISLATIVE BILL 560.** Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2602, Reissue Revised Statutes of Nebraska, and section 86-527, Revised Statutes Supplement, 2004; to change cigarette tax distribution provisions; to eliminate completed expenditures and transfers; and to repeal the original sections.

**LEGISLATIVE BILL 561.** Introduced by Kopplin, 3; Schimek, 27.

A BILL FOR AN ACT relating to schools; to amend sections 79-2,133 and 79-1003, Reissue Revised Statutes of Nebraska; to provide for free meals for students who are children of deployed military personnel; to provide for fee waivers as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 562.** Introduced by Janssen, 15.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-103, Reissue Revised Statutes of Nebraska; to redefine

alcohol to include the gaseous form; and to repeal the original section.

**LEGISLATIVE BILL 563.** Introduced by Janssen, 15.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-103, Reissue Revised Statutes of Nebraska; to redefine a term; and to repeal the original section.

**LEGISLATIVE BILL 564.** Introduced by Janssen, 15; Baker, 44; Cunningham, 40; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to contracts; to provide for payment of excise taxes as prescribed.

**LEGISLATIVE BILL 565.** Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to land information systems; to amend sections 23-1503.01, 33-109, 33-130, 67-406, 76-901, and 76-903, Reissue Revised Statutes of Nebraska, and section 86-520, Revised Statutes Supplement, 2004; to adopt the Land Information System Program Act; to provide funding; to change tax rates and fees; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 566.** Introduced by Schimek, 27.

A BILL FOR AN ACT relating to elections; to amend sections 32-101, 32-103, 32-203, 32-301, 32-306, 32-308 to 32-310, 32-312, 32-314 to 32-316, 32-318 to 32-326, 32-328 to 32-330, 32-901, 32-908, 32-909, 32-914, 32-914.01, 32-914.02, 32-915, 32-916, 32-921, 32-938 to 32-943, 32-945 to 32-951, 32-1002, 32-1027, 32-1032, 32-1502, and 32-1544, Reissue Revised Statutes of Nebraska; to provide powers and duties and change and eliminate provisions relating to registration of voters and the conduct of elections; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 32-304 and 32-915.02, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 567.** Introduced by Beutler, 28; Burling, 33.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 29-2262.04, Reissue Revised Statutes of Nebraska, and sections 29-2262 and 29-4013, Revised Statutes Supplement, 2004; to adopt the Sex Offender Monitoring Act; to change provisions relating to probation and sex offender registration; to provide a penalty; and to repeal the original sections.

**LEGISLATIVE BILL 568.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to banking and finance; to amend sections 45-907, 45-919, and 45-922, Reissue Revised Statutes of Nebraska; to change provisions relating to delayed deposit services; and to repeal the

original sections.

**LEGISLATIVE BILL 569.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to immunizations; to prohibit certain ingredients as prescribed; to provide for insurance reimbursement; and to provide an operative date.

**LEGISLATIVE BILL 570.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to the Uniform Commercial Code; to amend sections 45-1,109, 53-208, and 69-2103, Reissue Revised Statutes of Nebraska, sections 86-630 and 86-643, Revised Statutes Supplement, 2004, and sections 2-103, 2-202, 2A-103, 2A-501, 2A-518, 2A-519, 2A-527, 2A-528, 3-103, 4-104, 4A-105, 4A-106, 4A-204, 5-103, 8-102, and 9-102, Uniform Commercial Code; to adopt uniform provisions relating to general provisions; to eliminate provisions governing general provisions; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide an operative date; to repeal the original sections; and to outright repeal sections 1-101 to 1-110, 1-201 to 1-208, 2-208, and 2A-207, Uniform Commercial Code.

**LEGISLATIVE BILL 571.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-27,187.02, 77-4104, 77-4113, and 77-5534, Reissue Revised Statutes of Nebraska, and sections 77-4103, 81-1316, and 81-1373, Revised Statutes Supplement, 2004; to create the Tax Incentive Division of the Department of Revenue; to create and eliminate funds; to provide for assessment of administrative costs; to define and redefine terms; to change fees; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 572.** Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to correctional services; to create a task force; to provide for a study of the Department of Correctional Services, a report, and a termination date; and to declare an emergency.

**LEGISLATIVE BILL 573.** Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to horseracing; to amend section 2-1207, Reissue Revised Statutes of Nebraska, and sections 2-1203 and 2-1208, Revised Statutes Supplement, 2004; to change provisions relating to horseracing; to provide duties; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 574.** Introduced by Kremer, 34.

A BILL FOR AN ACT relating to the enrollment option program; to amend sections 79-237, 79-238, and 79-240, Reissue Revised Statutes of Nebraska; to change provisions relating to sibling applications; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 575.** Introduced by Redfield, 12; Brown, 6; Jensen, 20.

A BILL FOR AN ACT relating to labor; to amend section 77-2716, Reissue Revised Statutes of Nebraska; to adopt the Long-Term Care Savings Plan Act; to provide an income tax credit; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 576.** Introduced by Redfield, 12; Mines, 18.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701.02, 77-2701.24, 77-2701.32, 77-2704.26, 77-2704.30, and 77-2704.46, Reissue Revised Statutes of Nebraska, and sections 77-2701, 77-2701.04, 77-2701.10, 77-2701.16, 77-2701.45, and 77-2703, Revised Statutes Supplement, 2004; to change the sales tax rate; to tax certain services; to eliminate certain exemptions; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 77-2704.03, 77-2704.04, 77-2704.07, 77-2704.10, 77-2704.13, 77-2704.14, 77-2704.16, 77-2704.17, 77-2704.19, 77-2704.20, 77-2704.23, 77-2704.25, 77-2704.27, 77-2704.38, 77-2704.40, and 77-2704.50, Reissue Revised Statutes of Nebraska, and sections 77-2704.12, 77-2704.15, 77-2704.36, 77-2704.37, and 77-2704.55, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 577.** Introduced by Raikes, 25; Brown, 6; Kruse, 13.

A BILL FOR AN ACT relating to education; to amend sections 79-1003, 79-1007.01, and 79-1103, Reissue Revised Statutes of Nebraska, and section 79-1007.02, Revised Statutes Supplement, 2004; to change provisions relating to early childhood education programs as prescribed; to define and redefine terms; to provide a weighting factor and a calculation; to change provisions relating to a grant program; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 578.** Introduced by Raikes, 25; Connealy, 16; Mines, 18.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-1736.06 and 79-1018.01, Reissue Revised Statutes of Nebraska, and section 79-1016, Revised Statutes Supplement, 2004; to change provisions relating to payment of property tax refunds; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 579.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend sections 43-2007, 60-658, 79-215, 79-233, 79-234, 79-237, 79-238, 79-239, 79-240, 79-313, 79-318, 79-528, 79-598, 79-606, 79-608, 79-611, 79-1003, 79-1010, 79-1092, 79-10,111, 79-1102, 79-1110, 79-1212, 79-1601, 79-1606, and 85-607, Reissue Revised Statutes of Nebraska, and section 79-1011, Revised Statutes Supplement, 2004; to change provisions relating to missing person notifications, school transportation, wards' tuition, the enrollment option program, the State Board of Education, reports, contracts, reorganization incentives under the Tax Equity and Educational Opportunities Support Act, health and safety modifications, the Early Childhood Training Center, meetings of reorganized educational service unit boards, and schools which elect not to meet accreditation or approval requirements; to eliminate provisions relating to schools in cities of the metropolitan class, the Diagnostic Resource Center at Cozad, and a fund; to harmonize provisions; to repeal the original sections; and to outright repeal sections 79-535 and 79-1168 to 79-1178, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 580.** Introduced by Johnson, 37; Beutler, 28; Bourne, 8; Brown, 6; Byars, 30; Chambers, 11; Howard, 9; Kruse, 13; Landis, 46; D. Pederson, 42; Price, 26; Raikes, 25; Schimek, 27; Thompson, 14.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 2004; to adopt the Human Cloning Prohibition Act; to provide penalties; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 581.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to public records; to amend section 84-712.05, Revised Statutes Supplement, 2004; to change provisions relating to records withheld from the public; and to repeal the original section.

**LEGISLATIVE BILL 582.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to county government; to amend sections 23-3203 and 77-414, Reissue Revised Statutes of Nebraska, and sections 23-3202 and 77-422, Revised Statutes Supplement, 2004; to change requirements for the offices of county assessor and county clerk acting as ex officio county assessor; to change educational requirements; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 583.** Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to schools; to amend section 79-211,

Reissue Revised Statutes of Nebraska; to change minimum school term provisions; and to repeal the original section.

**LEGISLATIVE BILL 584.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to animals; to amend sections 54-626 and 54-627, Reissue Revised Statutes of Nebraska, and section 28-1008, Revised Statutes Supplement, 2004; to change licensure provisions of the Commercial Dog and Cat Operator Inspection Act; to include inspectors under the act as law enforcement officers for certain criminal offenses; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 585.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor carriers; to amend sections 75-109.01, 75-156, and 75-302, Reissue Revised Statutes of Nebraska; to require criminal history record checks for persons transporting passengers for regulated motor carriers; to enumerate eligibility criteria; to provide procedures; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

**LEGISLATIVE BILL 586.** Introduced by Connealy, 16; Beutler, 28; Byars, 30; Synowiecki, 7.

A BILL FOR AN ACT relating to food stamps; to provide duties for the Department of Health and Human Services relating to options and waivers.

**LEGISLATIVE BILL 587.** Introduced by Burling, 33; Aguilar, 35; Baker, 44; Stuthman, 22.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-105, 60-106, 60-311.16, 60-3001, 60-3004, and 60-3007, Reissue Revised Statutes of Nebraska; to provide for certificates of title, registration, license plates, and taxation for replica motor vehicles; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 588.** Introduced by Legislative Performance Audit Committee: Beutler, 28, Chairperson; Brashear, 4; Engel, 17; Erdman, 47; McDonald, 41; D. Pederson, 42; Price, 26.

A BILL FOR AN ACT relating to the Legislature; to amend sections 50-1203 to 50-1205, 50-1213 to 50-1215, and 77-27,119, Reissue Revised Statutes of Nebraska, and sections 84-304 and 84-311, Revised Statutes Supplement, 2004; to change provisions relating to the Legislative Performance Audit Committee and the Legislative Performance Audit Section; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 589.** Introduced by Legislative Performance Audit Committee: Beutler, 28, Chairperson; Brashear, 4; Engel, 17; Erdman, 47;

McDonald, 41; D. Pederson, 42; Price, 26.

A BILL FOR AN ACT relating to state benefit programs; to state intent; to define terms; to provide duties for insurers; to require coordination of benefits; to provide penalties; and to provide severability.

**LEGISLATIVE BILL 590.** Introduced by Preister, 5.

A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to amend section 48-101, Reissue Revised Statutes of Nebraska; to exempt injuries caused deliberately or by the willful negligence of the employer from coverage under the act; and to repeal the original section.

**LEGISLATIVE BILL 591.** Introduced by Preister, 5.

A BILL FOR AN ACT relating to public information; to amend section 84-712.09, Reissue Revised Statutes of Nebraska, and sections 84-712, 84-712.03, 84-1409 to 84-1412, and 84-1414, Revised Statutes Supplement, 2004; to change provisions relating to public records and open meetings law; to change penalties; to define terms; to provide powers and duties; and to repeal the original sections.

**LEGISLATIVE BILL 592.** Introduced by Kruse, 13; Aguilar, 35; Baker, 44; Burling, 33; Byars, 30; Combs, 32; Foley, 29; Jensen, 20; Johnson, 37; Kopplin, 3; Kremer, 34; Price, 26; Schrock, 38; Thompson, 14.

A BILL FOR AN ACT relating to alcoholic liquor; to adopt the Alcoholic Liquor Liability Act.

**LEGISLATIVE BILL 593.** Introduced by Kruse, 13.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for biomedical research.

**LEGISLATIVE BILL 594.** Introduced by Kruse, 13; Baker, 44; Brown, 6; Burling, 33; Byars, 30; Combs, 32; Erdman, 47; Howard, 9; Hudkins, 21; Jensen, 20; Johnson, 37; Kopplin, 3; Kremer, 34; D. Pederson, 42; Redfield, 12; Schimek, 27; Schrock, 38; Stuhr, 24; Thompson, 14; Wehrbein, 2.

A BILL FOR AN ACT relating to driving under the influence; to amend sections 60-6,197.02 and 60-6,197.03, Reissue Revised Statutes of Nebraska, and section 28-106, Revised Statutes Supplement, 2004; to change and provide penalties; to change provisions relating to driving under the influence; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 595.** Introduced by Kruse, 13.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend section 79-1007.01, Reissue Revised

Statutes of Nebraska, and section 79-1028, Revised Statutes Supplement, 2004; to change provisions relating to weighting factors in calculating adjusted formula students as prescribed; to change provisions relating to applicable allowable growth rates; and to repeal the original sections.

**LEGISLATIVE BILL 596.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to college savings plans; to amend section 77-2716, Reissue Revised Statutes of Nebraska; to adopt the Nebraska Higher Education Deposit Program Act; to create a program; to provide duties for the State Treasurer; to provide exclusion from taxes for income and interest under the act as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 597.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Motor Vehicle Operator's License Act; to amend sections 60-462, 60-462.01, 60-484, 60-490, 60-4,131, 60-4,132, 60-4,137, and 60-4,141, Reissue Revised Statutes of Nebraska, and section 29-3608, Revised Statutes Supplement, 2004; to adopt federal provisions for commercial motor vehicles; to change provisions relating to transporting hazardous materials; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 598.** Introduced by Jensen, 20.

A BILL FOR AN ACT relating to health care funding; to amend sections 53-160 and 71-7605, Reissue Revised Statutes of Nebraska; to create a fund; to provide funding for substance abuse services; to change provisions relating to the amount and distribution of liquor tax proceeds; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 599.** Introduced by Loudon, 49; Kopplin, 3; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to municipalities; to provide duties; to change provisions relating to libraries; and to provide a duty for the Revisor of Statutes.

**LEGISLATIVE BILL 600.** Introduced by Loudon, 49; Burling, 33; Cornett, 45; Cunningham, 40; Erdman, 47; Flood, 19; Howard, 9; Jensen, 20; McDonald, 41; Redfield, 12; Stuhr, 24.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1371, Reissue Revised Statutes of Nebraska; to change provisions relating to comparable sales; and to repeal the original section.

**LEGISLATIVE BILL 601.** Introduced by Loudon, 49; Baker, 44; Burling, 33; Jensen, 20; Dw. Pedersen, 39; Stuthman, 22.

A BILL FOR AN ACT relating to interlocal cooperation; to amend sections 32-101 and 32-567, Reissue Revised Statutes of Nebraska, and section 13-2001, Revised Statutes Supplement, 2004; to provide for election of board members of certain solid waste entities as prescribed; to restrict powers relating to liens on property as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 602.** Introduced by Cornett, 45; Aguilar, 35; Bourne, 8; Burling, 33; Connealy, 16; Erdman, 47; Friend, 10; Howard, 9; Janssen, 15; Kopplin, 3; Kruse, 13; Louden, 49; McDonald, 41; Mines, 18; Pahls, 31; Preister, 5; Price, 26; Stuhr, 24; Stuthman, 22; Synowiecki, 7; Wehrbein, 2.

A BILL FOR AN ACT relating to veterans; to amend section 12-1301, Revised Statutes Supplement, 2004; to change membership provisions for the Nebraska Veterans Cemetery Advisory Board; and to repeal the original section.

**LEGISLATIVE BILL 603.** Introduced by Price, 26.

A BILL FOR AN ACT relating to the Nebraska Cosmetology Act; to amend section 71-3,106, Revised Statutes Supplement, 2004; to provide an exemption from the act; and to repeal the original section.

**LEGISLATIVE BILL 604.** Introduced by Price, 26.

A BILL FOR AN ACT relating to the Nebraska Clean Indoor Air Act; to amend section 71-5707, Revised Statutes Supplement, 2004; to require all licensed child care programs to be smokefree.

**LEGISLATIVE BILL 605.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to state universities and state colleges; to amend sections 85-412, 85-415, 85-417, and 85-418, Reissue Revised Statutes of Nebraska, and section 85-414, Revised Statutes Supplement, 2004; to change provisions relating to construction and improvement projects; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 606.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to public health and welfare; to amend section 43-1301, Reissue Revised Statutes of Nebraska; to adopt the Children's Behavioral Health Act; to harmonize provisions; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 607.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to real property; to amend sections 77-1822 and 77-1823, Reissue Revised Statutes of Nebraska; to increase fees on deeds or certificates issued for reassignment or sale for taxes; and to repeal the original sections.

**LEGISLATIVE BILL 608.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to government; to adopt the Thermal System Insulation and Firestop Act; to provide a penalty; and to provide an operative date.

**LEGISLATIVE BILL 609.** Introduced by Bourne, 8; Thompson, 14.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 37-1292, 60-129.02, and 60-160, Reissue Revised Statutes of Nebraska, and section 28-635, Revised Statutes Supplement, 2004; to prohibit acts relating to inflatable restraint systems; to redefine terms relating to salvaged motorboats and motor vehicles; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 610.** Introduced by Synowiecki, 7; Bourne, 8; Chambers, 11; Flood, 19; Howard, 9; Kruse, 13; Preister, 5; Smith, 48.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701, 77-2701.04, and 77-2704.55, Revised Statutes Supplement, 2004; to exempt certain contractor labor and building materials, supplies, and equipment from sales tax; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 611.** Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to criminal procedure; to amend sections 29-901.05 and 29-2708, Reissue Revised Statutes of Nebraska, and section 29-901, Revised Statutes Supplement, 2004; to change provisions relating to appearance bonds; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 612.** Introduced by Synowiecki, 7; Bourne, 8; Burling, 33; Flood, 19; Howard, 9; Kruse, 13; Loudon, 49; Preister, 5; Smith, 48.

A BILL FOR AN ACT relating to enterprise zones; to amend section 13-2103, Reissue Revised Statutes of Nebraska; to change provisions relating to designation of enterprise zones; and to repeal the original section.

**LEGISLATIVE BILL 613.** Introduced by Price, 26.

A BILL FOR AN ACT relating to the Nebraska Clean Indoor Air Act; to amend section 71-5707, Revised Statutes Supplement, 2004; to require

licensed foster care facilities to be smokefree; and to repeal the original section.

**LEGISLATIVE BILL 614.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to the State Electrical Board; to authorize salary adjustments for employees of the State Electrical Division; to appropriate funds; and to declare an emergency.

**LEGISLATIVE BILL 615.** Introduced by Howard, 9; Cornett, 45; Flood, 19; Friend, 10; Kopplin, 3; Loudon, 49; McDonald, 41; Synowiecki, 7.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701 and 77-2701.04, Revised Statutes Supplement, 2004; to provide an exemption for sales tax paid on residential repairs; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 616.** Introduced by Howard, 9; Cornett, 45; Pahls, 31; Synowiecki, 7.

A BILL FOR AN ACT relating to the Special Education Act; to amend section 79-1142, Reissue Revised Statutes of Nebraska; to prohibit discrimination in reimbursements as prescribed; and to repeal the original section.

## **RESOLUTION**

**LEGISLATIVE RESOLUTION 23.** Introduced by Howard, 9.

WHEREAS, the Legislature supports federal efforts to improve public school education, provide greater funding, establish accountability, ensure qualified and fairly compensated teachers, and guarantee that all our nation's children receive an adequate education; and

WHEREAS, Nebraska has been a leader in measuring student achievement, establishing statewide testing in the year 2000 to provide school districts with a guide toward evaluating their program offerings without eroding local control; and

WHEREAS, Nebraska's students have shown steady academic improvement, increasing scores four percent to seven percent in the 2003-2004 State Education Report Card without federal intervention; and

WHEREAS, the funding for the No Child Left Behind Act is nine billion dollars below what Congress said would be necessary to implement the activities of the program for fiscal year 2004 and thirty-two billion dollars below full funding in 2003; and

WHEREAS, Title I funding for budget year 2005 leaves Nebraska over twenty-nine million dollars short of being fully funded; and

WHEREAS, the No Child Left Behind Act forces school districts and states to pay for paperwork and new bureaucracies to administer and count test scores, transport students, pay for private tutors, and pay for potentially

expensive corrective actions in spite of Nebraska's successful statewide testing and accountability; and

WHEREAS, the No Child Left Behind Act has become an enormous unfunded federal mandate for Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature calls upon the United States Congress to fully fund the No Child Left Behind Act or modify it's contents to better reflect the Congress' actual financial commitment to the program.

2. That the Clerk of the Legislature send a copy of this resolution to Nebraska's congressional delegation.

### **SPEAKER'S ANNOUNCEMENT**

Pursuant to Rule 4, Section 8, LR 23 was referred to the Reference Committee.

### **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 24CA.** Introduced by Raikes, 25.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article VII, section 5 and Article VII, section 7:

VII-5 (1) Except as otherwise provided in ~~subsections (2) and (3)~~ of this section, all fines, penalties, and license ~~money~~fees arising under the general laws of the state, except fines and penalties for violation of laws prohibiting the overloading of vehicles used upon the public roads and highways of this state, shall belong and be paid over to the counties respectively where the same may be levied or imposed, and all fines, penalties, and license ~~money~~fees arising under the rules, bylaws, or ordinances of cities, villages, precincts, or other municipal subdivision less than a county shall belong and be paid over to the same respectively. All such fines, penalties, and license ~~money~~fees shall be appropriated exclusively to the use and support of the common schools in the respective subdivisions where the same may accrue, except that all fines and penalties for violation of laws prohibiting the overloading of vehicles used upon the public roads and highways shall be placed as follows: Seventy-five ~~per cent~~percent in a fund for state highways and twenty-five ~~per cent~~percent to the county general fund where the fine or penalty is paid.

(2) Fifty ~~per cent~~percent of all money forfeited or seized pursuant to enforcement of the drug laws shall belong and be paid over to the counties for drug enforcement purposes as the Legislature may provide.

(3) Law enforcement agencies may use conveyances forfeited pursuant to enforcement of the drug laws as the Legislature may provide. Upon the sale of such conveyances, the proceeds shall be appropriated exclusively to the

use and support of the common schools as provided in subsection (1) of this section.

(4) The Legislature may direct funds collected from specific fines, penalties, and license fees arising under the general laws of the state to be paid over to the perpetual funds for common schools purposes if the fine, penalty, or license fee was levied or imposed by the executive department of the state.

VII-7 The following are hereby declared to be perpetual funds for common school purposes of which the annual interest or income only can be appropriated, to wit:

First. Such ~~per cent~~ percent as has been, or may hereafter be, granted by Congress on the sale of lands in this state.

Second. All money arising from the sale or leasing of sections number sixteen and thirty-six in each township in this state, and the lands selected, or that may be selected, in lieu thereof.

Third. The proceeds of all lands that have been, or may hereafter be, granted to this state, where by the terms and conditions of such grant the same are not to be otherwise appropriated.

Fourth. The net proceeds of lands and other property and effects that may come to this state, by escheat or forfeiture, or from unclaimed dividends, or distributive shares of the estates of deceased persons.

Fifth. Fines, penalties, and license fees as directed by the Legislature, arising under the general laws of the state levied or imposed by the executive department of the state.

Sixth. All other property of any kind now belonging to the perpetual fund.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to permit the Legislature to direct funds from fines, penalties, or license money levied by the executive department to the perpetual fund for common school purposes.

For

Against.

Referred to the Reference Committee.

**LEGISLATIVE RESOLUTION 25CA.** Introduced by Smith, 48; Brown, 6.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To add a new section 6 to Article XI:

XI-6 Municipalities and counties are granted the power and authority, not inconsistent with the laws of this state, to determine their own local affairs and government. The Legislature shall determine which matters are those of statewide concern and which matters are those of local concern.

The Legislature may by law delegate its power so that matters of local concern are handled by municipalities and counties without the necessity of further action by the Legislature. Matters of local concern do not include engaging in the provision of services adequately provided by the private sector. The rule or proposition of law, that a municipality or county possesses and can exercise only those powers granted in express words, is not part of the law of this state.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to authorize municipalities and counties to exercise powers in matters of local concern, with the Legislature to determine which matters are of statewide and local concern.

For

Against.

Referred to the Reference Committee.

### **NOTICE OF COMMITTEE HEARINGS**

#### **Agriculture**

Room 1524

LB 71	Tuesday, January 25, 2005	1:30 p.m.
LB 330	Tuesday, January 25, 2005	1:30 p.m.
LB 441	Tuesday, January 25, 2005	1:30 p.m.
LB 150	Tuesday, January 25, 2005	1:30 p.m.

(Signed) Bob Kremer, Chairperson

#### **Urban Affairs**

Room 1510

LB 14	Tuesday, January 25, 2005	1:30 p.m.
LB 22	Tuesday, January 25, 2005	1:30 p.m.
LB 92	Tuesday, January 25, 2005	1:30 p.m.
LB 161	Tuesday, January 25, 2005	1:30 p.m.
LB 234	Tuesday, January 25, 2005	1:30 p.m.

(Signed) Mike Friend, Chairperson

### **Banking, Commerce and Insurance**

Room 1507

LB 97	Tuesday, January 25, 2005	1:30 p.m.
LB 149	Tuesday, January 25, 2005	1:30 p.m.
LB 315	Tuesday, January 25, 2005	1:30 p.m.
LB 374	Tuesday, January 25, 2005	1:30 p.m.

(Signed) Mick Mines, Chairperson

**Nebraska Retirement Systems**  
Room 1525

Tuesday, January 25, 2005

9:00 a.m.

John Maddux - Nebraska Investment Council

(Signed) Elaine Stuhr, Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Friend asked unanimous consent to have his name added as cointroducer to LB 14. No objections. So ordered.

Senator Burling asked unanimous consent to have his name added as cointroducer to LBs 56 and 159. No objections. So ordered.

Senator Redfield asked unanimous consent to have her name added as cointroducer to LB 67. No objections. So ordered.

Senators Brown and Redfield asked unanimous consent to have their names added as cointroducers to LB 388. No objections. So ordered.

Senator Stuthman asked unanimous consent to have his name added as cointroducer to LB 437. No objections. So ordered.

Senator Hudkins asked unanimous consent to have her name added as cointroducer to LB 439. No objections. So ordered.

Senator Cudaback asked unanimous consent to have his name added as cointroducer to LB 470. No objections. So ordered.

Senators Foley and Wehrbein asked unanimous consent to have their names added as cointroducers to LB 542. No objections. So ordered.

**WITHDRAW - Cointroducer**

Senator Wehrbein withdrew his name as cointroducer to LB 227.

**VISITORS**

Visitors to the Chamber were Jeanni Hohnstein from Scottsbluff; and members of St. John Lutheran Church from Beatrice.

**ADJOURNMENT**

At 12:18 p.m., on a motion by Senator Erdman, the Legislature adjourned until 10:00 a.m., Wednesday, January 19, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

# **TENTH DAY - JANUARY 19, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **TENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, January 19, 2005

#### **PRAAYER**

The prayer was offered by Senator Jensen.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Fischer who was excused; and Senators Engel and Loudon who were excused until they arrive.

#### **CORRECTIONS FOR THE JOURNAL**

The Journal for the ninth day was approved.

#### **REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB 391	Banking, Commerce and Insurance (rereferred)
LB 481	Judiciary
LB 482	Revenue
LB 483	Judiciary
LB 484	Business and Labor
LB 485	Business and Labor
LB 486	Business and Labor
LB 487	Business and Labor
LB 488	Business and Labor
LB 489	Business and Labor
LB 490	Government, Military and Veterans Affairs
LB 491	Banking, Commerce and Insurance
LB 492	Agriculture
LB 493	Nebraska Retirement Systems
LB 494	Nebraska Retirement Systems

LB 495	Nebraska Retirement Systems
LB 496	Banking, Commerce and Insurance
LB 497	Education
LB 498	Banking, Commerce and Insurance
LB 499	Revenue
LB 500	Revenue
LB 501	Government, Military and Veterans Affairs
LB 502	Education
LB 503	Nebraska Retirement Systems
LB 504	Judiciary
LB 505	Judiciary
LB 506	Judiciary
LB 507	Judiciary
LB 508	Natural Resources
LB 509	Government, Military and Veterans Affairs
LB 510	Judiciary
LB 511	Appropriations
LB 512	Government, Military and Veterans Affairs
LB 513	Revenue
LB 514	Revenue
LB 515	Appropriations
LB 516	Transportation and Telecommunications
LB 517	Agriculture
LB 518	Urban Affairs
LB 519	Government, Military and Veterans Affairs
LB 520	Revenue
LB 521	Appropriations
LB 522	Health and Human Services
LB 523	Revenue
LB 524	Business and Labor
LB 525	Government, Military and Veterans Affairs
LB 526	Revenue
LB 527	Education
LB 528	Urban Affairs
LB 529	Judiciary
LB 530	General Affairs
LB 531	Agriculture
LB 532	Business and Labor
LB 533	Banking, Commerce and Insurance
LB 534	Health and Human Services
LB 535	Judiciary
LB 536	Judiciary
LB 537	Judiciary
LB 538	Judiciary
LB 539	Appropriations
LB 540	Judiciary
LB 541	Judiciary
LB 542	Revenue
LB 543	Revenue

LB 544	Natural Resources
LB 545	Banking, Commerce and Insurance
LB 546	Banking, Commerce and Insurance
LR 15	Transportation and Telecommunications
LR 22CA	Judiciary

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

## NOTICE OF COMMITTEE HEARINGS

### Judiciary Room 1113

LB 181	Wednesday, January 26, 2005	1:30 p.m.
LB 213	Wednesday, January 26, 2005	1:30 p.m.
LB 282	Wednesday, January 26, 2005	1:30 p.m.
LB 294	Wednesday, January 26, 2005	1:30 p.m.
LB 308	Wednesday, January 26, 2005	1:30 p.m.
LB 345	Wednesday, January 26, 2005	1:30 p.m.
LB 360	Wednesday, January 26, 2005	1:30 p.m.
LB 362	Wednesday, January 26, 2005	1:30 p.m.
LB 363	Wednesday, January 26, 2005	1:30 p.m.
LB 30	Thursday, January 27, 2005	1:30 p.m.
LB 110	Thursday, January 27, 2005	1:30 p.m.
LB 278	Thursday, January 27, 2005	1:30 p.m.
LB 419	Thursday, January 27, 2005	1:30 p.m.
LB 446	Thursday, January 27, 2005	1:30 p.m.
LB 455	Thursday, January 27, 2005	1:30 p.m.

(Signed) Patrick J. Bourne, Chairperson

### Government, Military and Veterans Affairs Room 1507

LB 55	Wednesday, January 26, 2005	1:30 p.m.
LB 58	Wednesday, January 26, 2005	1:30 p.m.
LB 167	Wednesday, January 26, 2005	1:30 p.m.
LB 214	Wednesday, January 26, 2005	1:30 p.m.
LB 217	Wednesday, January 26, 2005	1:30 p.m.
LB 74	Thursday, January 27, 2005	1:30 p.m.
LB 187	Thursday, January 27, 2005	1:30 p.m.
LB 188	Thursday, January 27, 2005	1:30 p.m.
LB 242	Thursday, January 27, 2005	1:30 p.m.

(Signed) DiAnna R. Schimek, Chairperson

**Health and Human Services**  
Room 1510

LB 85	Wednesday, January 26, 2005	1:30 p.m.
LB 193	Wednesday, January 26, 2005	1:30 p.m.
LB 204	Wednesday, January 26, 2005	1:30 p.m.
LB 258	Wednesday, January 26, 2005	1:30 p.m.
LB 259	Wednesday, January 26, 2005	1:30 p.m.
LB 256	Thursday, January 27, 2005	1:30 p.m.
LB 338	Thursday, January 27, 2005	1:30 p.m.
LB 339	Thursday, January 27, 2005	1:30 p.m.
LB 387	Thursday, January 27, 2005	1:30 p.m.

(Signed) Jim Jensen, Chairperson

**STANDING COMMITTEE REPORTS**  
**Transportation and Telecommunications**

**LEGISLATIVE BILL 80.** Placed on General File.

**LEGISLATIVE BILL 83.** Placed on General File.

(Signed) Tom Baker, Chairperson

**MOTION - Withdraw LR 17CA**

Senator Chambers renewed his pending motion, found on page 255, to withdraw LR 17CA.

The Chambers motion to withdraw prevailed with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

**MOTION - Withdraw LB 203**

Senator Thompson renewed her pending motion, found on page 261, to withdraw LB 203.

The Thompson motion to withdraw prevailed with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

**BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 617.** Introduced by Loudon, 49; Burling, 33; Friend, 10; Howard, 9; Dw. Pedersen, 39; Preister, 5; Stuthman, 22.

A BILL FOR AN ACT relating to recreational activities; to amend section 37-734, Reissue Revised Statutes of Nebraska; to change provisions relating

to owner liability; and to repeal the original section.

**LEGISLATIVE BILL 618.** Introduced by Flood, 19; Burling, 33; Cunningham, 40; Erdman, 47; Howard, 9; Stuthman, 22.

A BILL FOR AN ACT relating to the Nebraska Behavioral Health Services Act; to amend section 71-801, Revised Statutes Supplement, 2004; to provide for a recording system and reports; to require a contract as prescribed; to provide for appropriations; to harmonize provisions; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 619.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to water resources; to amend sections 31-1015, 33-105, 46-241, 54-2429, and 61-210, Reissue Revised Statutes of Nebraska, and section 2-3257, Revised Statutes Supplement, 2004; to adopt the Safety of Dams and Reservoirs Act; to provide and eliminate penalties; to eliminate provisions relating to dam inspections; to harmonize provisions; to repeal the original sections; and to outright repeal sections 46-257, 46-277, and 46-278, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 620.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to recreational lands; to amend sections 37-733 and 37-734, Reissue Revised Statutes of Nebraska; to change provisions relating to leased land and landowner liability; to provide that habitat improvement payments are not a charge; and to repeal the original sections.

**LEGISLATIVE BILL 621.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-601 and 60-605, Reissue Revised Statutes of Nebraska; to define terms; to provide for a rebuttable presumption of negligence for use of a mobile telephone as prescribed; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 622.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to postsecondary education; to adopt the In the Line of Duty Dependent Education Act; to provide an operative date; to provide severability; and to declare an emergency.

**LEGISLATIVE BILL 623.** Introduced by Byars, 30.

A BILL FOR AN ACT relating to public health and welfare; to provide requirements for grants related to home and community services programs; and to provide powers and duties.

**LEGISLATIVE BILL 624.** Introduced by Combs, 32.

A BILL FOR AN ACT relating to the Nebraska Scholarship Act; to amend section 85-1906, Revised Statutes Supplement, 2004; to redefine eligible postsecondary educational institution; and to repeal the original section.

**LEGISLATIVE BILL 625.** Introduced by Combs, 32.

A BILL FOR AN ACT relating to public health and welfare; to adopt the Medicaid Insurance for Workers with Disabilities Act; and to provide a termination date.

**LEGISLATIVE BILL 626.** Introduced by Combs, 32.

A BILL FOR AN ACT relating to municipalities; to amend sections 14-3,100, 17-501, and 17-952, Reissue Revised Statutes of Nebraska, and section 16-696, Revised Statutes Supplement, 2004; to change eligibility criteria for certain committees and boards; to eliminate certain references to freeholders; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 627.** Introduced by Howard, 9.

A BILL FOR AN ACT relating to schools; to require adoption of a bullying policy.

**LEGISLATIVE BILL 628.** Introduced by Howard, 9.

A BILL FOR AN ACT relating to schools; to amend sections 77-2704.10, 77-2704.24, 77-27,132, and 79-1018.01, Reissue Revised Statutes of Nebraska; to create a fund for school facilities; to impose sales tax on snack food; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 629.** Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to municipalities; to amend section 17-414, Reissue Revised Statutes of Nebraska; to change provisions relating to annexation and disconnection by cities of the second class or villages; to provide duties; to define a term; and to repeal the original section.

**LEGISLATIVE BILL 630.** Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to annexation; to provide for reimbursement to rural water districts as prescribed.

**LEGISLATIVE BILL 631.** Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,144, Reissue Revised Statutes of Nebraska; to change

issuance provisions for permits for extraordinary use of controlled-access highways; and to repeal the original section.

**LEGISLATIVE BILL 632.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-1201, Reissue Revised Statutes of Nebraska, and section 28-101, Revised Statutes Supplement, 2004; to create the offenses of unlawful possession of a firearm or ammunition pursuant to a domestic assault conviction and unlawful possession of a firearm or ammunition while subject to a protection order; to provide an exception for peace officers; to provide penalties; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 633.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to domestic violence; to amend sections 42-358, 42-901, 42-903, 42-907, 42-924, 42-924.02, and 42-925 to 42-928, Reissue Revised Statutes of Nebraska; to change provisions relating to the Protection from Domestic Abuse Act; to provide penalties; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 634.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend section 79-611, Reissue Revised Statutes of Nebraska; to change provisions relating to transportation; and to repeal the original section.

**LEGISLATIVE BILL 635.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-3442, Revised Statutes Supplement, 2004; to change tax levy calculations for schools; and to repeal the original section.

**LEGISLATIVE BILL 636.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend sections 79-101, 79-215, 79-1116, and 79-1140, Reissue Revised Statutes of Nebraska; to define terms; to change provisions relating to calculation of costs for wards' education; to provide for calculation of costs under the Special Education Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 637.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to educational service units; to amend sections 79-1241 and 79-1243, Reissue Revised Statutes of Nebraska; to create and provide duties for a coordinating council; to change provisions relating to core services funds; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 638.** Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to public power districts; to amend section 70-604.02, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to operating area; and to repeal the original section.

**LEGISLATIVE BILL 639.** Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to highways and roads; to amend sections 39-1302 and 39-1311, Reissue Revised Statutes of Nebraska; to include proposed beltways on the corridor location map; and to repeal the original sections.

**LEGISLATIVE BILL 640.** Introduced by Connealy, 16.

A BILL FOR AN ACT relating to abstracters; to amend section 76-547, Reissue Revised Statutes of Nebraska; to change registration requirements as prescribed; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 641.** Introduced by Connealy, 16.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-121, Reissue Revised Statutes of Nebraska; to change provisions relating to partial disability compensation; and to repeal the original section.

**LEGISLATIVE BILL 642.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to probation and parole; to amend sections 29-2249, 29-2251, 29-2253, 29-2256, 29-2262.04, 29-2265, 29-2270, 43-260, 43-2,113, 43-2411, 43-3001, 43-3505, 47-623, 47-624, 47-627, 47-628, 47-629, 68-1729, 68-1732, 83-170, 83-195, 83-1,100, 83-1,116, 83-1,119, 83-1,120, 83-1,128, and 83-932, Reissue Revised Statutes of Nebraska, and sections 24-205, 24-227.01, 28-322 to 28-322.03, 29-2246, 29-2250, 29-2252, 29-2254, 29-2257, 29-2258, 29-2259, 29-2259.02, 29-2260.01, 29-2261, 29-2262, 29-2262.06, 29-2262.07, 29-2263, 29-2264, 29-2266, 29-2269, 29-2272, 29-2935, 29-4009, 29-4305, 81-1401, 81-1848, 83-1,107, and 83-1,107.01, Revised Statutes Supplement, 2004; to change, transfer, and eliminate provisions relating to the Nebraska Probation Administration Act, the Nebraska Treatment and Corrections Act, probation, and parole; to rename an act; to change provisions relating to powers and duties, funds, confidentiality, and penalties as prescribed; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 83-1,100.01, 83-1,103, and 83-1,104, Reissue Revised Statutes of Nebraska, and sections 83-1,102, 83-1,107.02, and 83-933, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 643.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to fees; to amend sections 25-1031.02, 33-103, 33-106, 33-106.02, 33-107.01, 33-123, 33-124, 33-125, 33-126.02, 33-126.03, 33-126.05, 33-126.06, and 33-156, Reissue Revised Statutes of Nebraska, and sections 24-703 and 25-2804, Revised Statutes Supplement, 2004; to change certain court fees as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 644.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701, Revised Statutes Supplement, 2004; to authorize a refund of sales taxes on certain admissions as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 645.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to telecommunications and technology; to amend section 75-156, Reissue Revised Statutes of Nebraska, and sections 25-2602.01 and 86-575, Revised Statutes Supplement, 2004; to prohibit political subdivisions from providing certain technology-based services; to repeal the original sections; and to outright repeal sections 86-581 to 86-592, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 646.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-202, Reissue Revised Statutes of Nebraska; to adopt the Advantage Nebraska Act; to harmonize provisions; to provide severability; and to repeal the original section.

**LEGISLATIVE BILL 647.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to limited liability companies; to amend sections 21-2601 and 21-2634, Reissue Revised Statutes of Nebraska; to provide for the filing of biennial reports as prescribed; to change filing fee provisions; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 648.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to civil procedure; to eliminate provisions relating to settlement escrow which terminated July 1, 2004; and to outright repeal sections 25-2922 to 25-2929, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 649.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to courts; to amend section 25-1144, Reissue Revised Statutes of Nebraska; to clarify internal references; and to repeal the original section.

**LEGISLATIVE BILL 650.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-4205, Revised Statutes Supplement, 2004; to clarify provisions relating to audiovisual court appearances; and to repeal the original section.

**LEGISLATIVE BILL 651.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to drainage; to adopt the Limited Purpose Sanitary and Improvement District Act.

**LEGISLATIVE BILL 652.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to insurance; to amend sections 44-3520 to 44-3526, Reissue Revised Statutes of Nebraska; to rename and change provisions of the Motor Vehicle Service Contract Reimbursement Insurance Act; and to repeal the original sections.

**LEGISLATIVE BILL 653.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to county court judgeships; to amend section 24-503, Revised Statutes Supplement, 2004; to change the number of judgeships as prescribed; to provide an operative date; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 654.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to divorce; to amend sections 42-364 and 43-2911, Reissue Revised Statutes of Nebraska; to change provisions relating to child custody determination and mediation and remediation costs; and to repeal the original sections.

**LEGISLATIVE BILL 655.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to insurance; to create the Task Force on Small Employers Health Plans; to provide duties; and to declare an emergency.

**LEGISLATIVE BILL 656.** Introduced by Preister, 5.

A BILL FOR AN ACT relating to labor; to amend section 48-446, Reissue Revised Statutes of Nebraska; to change provisions of and provide funding for the Workplace Safety Consultation Program; and to repeal the original section.

**LEGISLATIVE BILL 657.** Introduced by Preister, 5.

A BILL FOR AN ACT relating to state government; to amend sections 73-506 and 73-509, Reissue Revised Statutes of Nebraska; to change provisions relating to state contracts for services; and to repeal the original

sections.

**LEGISLATIVE BILL 658.** Introduced by Preister, 5.

A BILL FOR AN ACT relating to the Livestock Waste Management Act; to amend section 54-2417, Reissue Revised Statutes of Nebraska; to redefine a term; and to repeal the original section.

**LEGISLATIVE BILL 659.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to health; to require reporting of certain billings for services provided to regional center patients.

**LEGISLATIVE BILL 660.** Introduced by Price, 26.

A BILL FOR AN ACT relating to home inspections; to adopt the Home Inspector Licensing Act.

**LEGISLATIVE BILL 661.** Introduced by Price, 26.

A BILL FOR AN ACT relating to employment; to adopt the Advocacy Leave Act.

**LEGISLATIVE BILL 662.** Introduced by Smith, 48.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 18-1741.04, 60-311.14, and 60-311.25, Reissue Revised Statutes of Nebraska, and sections 18-1736 to 18-1741.01, 18-1741.03, and 23-186, Revised Statutes Supplement, 2004; to change terminology relating to handicapped or disabled parking; to provide for issuance of two placards as prescribed; to change the expiration period for permanently issued placards; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 663.** Introduced by Cudaback, 36; Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-102, 60-104 to 60-106, 60-112, 60-115, and 60-117, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to certificates of title and license plates for assembled, kit, and historical vehicles; to harmonize provisions; to repeal the original sections; and to outright repeal sections 60-311.15 to 60-311.21, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 664.** Introduced by Cudaback, 36.

A BILL FOR AN ACT relating to health care facilities; to amend section 71-409, Revised Statutes Supplement, 2004; to redefine critical access hospital; and to repeal the original section.

**LEGISLATIVE BILL 665.** Introduced by Cudaback, 36.

A BILL FOR AN ACT relating to state identification cards; to amend sections 60-490 and 60-4,115, Reissue Revised Statutes of Nebraska; to provide for permanent state identification cards for persons seventy years of age and over; to change fees; to eliminate obsolete provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 666.** Introduced by Beutler, 28; Schimek, 27.

A BILL FOR AN ACT relating to persons with disabilities; to amend section 83-1201, Reissue Revised Statutes of Nebraska; to provide duties for providers and employees under the Developmental Disabilities Services Act as prescribed; to provide for fines and other disciplinary actions, hearings, and appeals; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 667.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701.16, Revised Statutes Supplement, 2004; to change a sales tax definition relating to computer software; and to repeal the original section.

**LEGISLATIVE BILL 668.** Introduced by Johnson, 37; Cudaback, 36.

A BILL FOR AN ACT relating to specific conveyances; to direct the Department of Health and Human Services to transfer real estate to the University of Nebraska at Kearney.

**LEGISLATIVE BILL 669.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to the Legislature; to state intent; to create and provide duties for the Institutional Agricultural Committee; to provide an operative date; and to declare an emergency.

**LEGISLATIVE BILL 670.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to computers; to amend sections 28-1341 and 28-1343, Reissue Revised Statutes of Nebraska; to change provisions relating to computer crimes; to prohibit acts relating to computer fraud and unsolicited bulk electronic mail messages; to provide for seizure and forfeiture of property; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 671.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to counties; to amend sections 23-2517 to 23-2520, 23-2522, 23-2524 to 23-2527, 23-2531, and 23-2533, Reissue Revised Statutes of Nebraska; to name the County Civil Service Act; to

provide personnel policies for transferring employees from the state or another political subdivision to a county when requested by the county; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 672.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2715.07 and 77-2717, Reissue Revised Statutes of Nebraska, and sections 77-2701 and 77-2734.03, Revised Statutes Supplement, 2004; to create an income tax credit for research and experimental activities; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 673.** Introduced by Loudon, 49; Aguilar, 35; Baker, 44; Combs, 32; Erdman, 47; McDonald, 41; Smith, 48; Stuthman, 22.

A BILL FOR AN ACT relating to agriculture; to amend sections 81-2,236 and 81-2,237, Reissue Revised Statutes of Nebraska; to adopt the Black-Tailed Prairie Dog Management Act; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 674.** Introduced by Connealy, 16.

A BILL FOR AN ACT relating to railroads; to amend section 74-308, Reissue Revised Statutes of Nebraska; to change provisions relating to eminent domain; and to repeal the original section.

**LEGISLATIVE BILL 675.** Introduced by Langemeier, 23; Cunningham, 40; Kremer, 34; Stuhr, 24.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-480, 60-4,120.01, 60-4,123, and 60-4,124, Reissue Revised Statutes of Nebraska; to change provisions relating to provisional operator's permits, LPD-learner's permits, school permits, and LPE-learner's permits; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 676.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to real property; to amend section 76-2221, Reissue Revised Statutes of Nebraska; to exempt certain persons from the Real Estate Appraiser Act; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 677.** Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to correctional services; to amend section 83-4,114.01, Reissue Revised Statutes of Nebraska; to define terms; to provide for administrative segregation of committed offenders; to provide duties for chief executive officers of facilities; to provide rights and

privileges as prescribed; to change provisions relating to discipline; and to repeal the original section.

**LEGISLATIVE BILL 678.** Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-462, 60-498.02, 60-4,112, 60-4,118.06, 60-4,129, 60-4,130, 60-6,197.01, 60-6,197.03, and 60-6,211.05, Reissue Revised Statutes of Nebraska; to require the use of ignition interlock devices as prescribed; to provide financial assistance for such devices as prescribed; to authorize fees, to create a fund; to change provisions regarding the suspension and revocation of operator's licenses; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 679.** Introduced by D. Pederson, 42.

A BILL FOR AN ACT relating to highways and bridges; to amend sections 39-2215, 39-2215.01, 39-2223, 39-2224, and 66-6,108, Reissue Revised Statutes of Nebraska, and 66-4,100, 66-4,140, and 66-4,144, Revised Statutes Supplement, 2004; to delete obsolete provisions; to authorize the issuance of highway bonds; to increase the principle amount of the bonds; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 680.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Nebraska Oil and Gas Conservation Commission; to amend sections 57-705 and 57-922, Reissue Revised Statutes of Nebraska; to create a fund; to change funding provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 681.** Introduced by Schimek, 27; Combs, 32; Stuthman, 22.

A BILL FOR AN ACT relating to education; to adopt the Physical Education in Schools Act.

**LEGISLATIVE BILL 682.** Introduced by Schimek, 27; Brashear, 4.

A BILL FOR AN ACT relating to elections; to amend sections 32-564 and 32-571, Reissue Revised Statutes of Nebraska; to change provisions relating to filling a vacancy in the office of Representative in Congress; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 683.** Introduced by Schimek, 27; Chambers, 11.

A BILL FOR AN ACT relating to state constitutional officers; to amend section 75-104, Reissue Revised Statutes of Nebraska, and sections 84-101.01, 84-201.01, and 84-721, Revised Statutes Supplement, 2004; to change the salaries of the Governor, Lieutenant Governor, Secretary of

State, Auditor of Public Accounts, State Treasurer, Attorney General, and members of the Public Service Commission; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 684.** Introduced by Schimek, 27; Beutler, 28.

A BILL FOR AN ACT relating to the Nebraska Capitol Commission; to amend sections 72-2201 and 81-1108.32, Revised Statutes Supplement, 2004; to provide powers and duties; to create a fund; to provide for a vice chairperson; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 685.** Introduced by Smith, 48.

A BILL FOR AN ACT relating to public records; to amend section 84-712.05, Revised Statutes Supplement, 2004; to change provisions relating to records which may be withheld from the public; and to repeal the original section.

**LEGISLATIVE BILL 686.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to the Intergovernmental Risk Management Act; to amend section 44-4313, Reissue Revised Statutes of Nebraska; to change a provision relating to funds of a risk management pool; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 687.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to inheritance tax; to amend sections 23-903 and 77-2032, Reissue Revised Statutes of Nebraska; to change distribution of tax revenue; to change a budget provision; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 688.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to the Nebraska Investment Finance Authority; to amend sections 58-201 to 58-203, 58-207, 58-219, and 58-242, Reissue Revised Statutes of Nebraska; to authorize financing for military housing; to modify provisions involving agricultural projects; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 689.** Introduced by Stuhr, 24; Raikes, 25.

A BILL FOR AN ACT relating to schools; to create and provide duties for the Distance Education Enhancement Task Force; to provide for termination; to state intent relating to appropriations; and to declare an emergency.

**LEGISLATIVE BILL 690.** Introduced by Stuhr, 24; Combs, 32; Heidemann, 1; McDonald, 41; Raikes, 25; Schrock, 38.

A BILL FOR AN ACT relating to education; to adopt the Career Education Partnership Act.

**LEGISLATIVE BILL 691.** Introduced by Stuhr, 24; D. Pederson, 42.

A BILL FOR AN ACT relating to retirement; to amend sections 23-2308.01, 23-2309.01, 23-2310.04, 23-2310.05, 23-2319.01, 84-1309.02, 84-1310.01, 84-1311.03, 84-1314, 84-1321.01, and 84-1514, Revised Statutes Supplement, 2004; to change provisions relating to cash balance and defined contribution benefits; to authorize fees; to eliminate obsolete language; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 692.** Introduced by Friend, 10.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2715.02, Reissue Revised Statutes of Nebraska; to reduce the income tax rate; and to repeal the original section.

**LEGISLATIVE BILL 693.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to the Nebraska Investment Finance Authority; to amend sections 58-201 to 58-203, 58-207, and 58-219, Reissue Revised Statutes of Nebraska; to authorize financing for economic-impact projects; to authorize public-private initiatives; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 694.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to appropriations; to create the Nebraska State Fair Support and Improvement Fund.

**LEGISLATIVE BILL 695.** Introduced by Baker, 44; Aguilar, 35; Bourne, 8; Brown, 6; Burling, 33; Byars, 30; Connealy, 16; Cornett, 45; Cunningham, 40; Engel, 17; Flood, 19; Foley, 29; Janssen, 15; Jensen, 20; Johnson, 37; Kopplin, 3; Kremer, 34; Mines, 18; Preister, 5; Redfield, 12; Smith, 48.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2701 and 77-2701.04, Revised Statutes Supplement, 2004; to exempt manufacturing machinery and equipment and services related to such machinery and equipment from sales and use taxation; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 696.** Introduced by Janssen, 15; Combs, 32; Mines, 18.

A BILL FOR AN ACT relating to the Employment and Investment Growth Act; to amend section 77-4106, Reissue Revised Statutes of Nebraska; to

provide for timing of refunds of certain sales and use taxes; and to repeal the original section.

**LEGISLATIVE BILL 697.** Introduced by Brown, 6; Smith, 48.

A BILL FOR AN ACT relating to the Department of Roads; to amend sections 81-101 and 81-102, Reissue Revised Statutes of Nebraska; to rename the department; to provide a duty for the Transportation and Telecommunications Committee of the Legislature; to provide severability; and to repeal the original sections.

**LEGISLATIVE BILL 698.** Introduced by Brown, 6.

A BILL FOR AN ACT relating to public building commissions; to amend section 13-1303, Reissue Revised Statutes of Nebraska; to change voting and compensation provisions relating to the fifth member; and to repeal the original section.

**LEGISLATIVE BILL 699.** Introduced by Smith, 48.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 19-2428, 77-1347, 77-1355, and 77-1359, Reissue Revised Statutes of Nebraska, and sections 77-1343 and 77-1344, Revised Statutes Supplement, 2004; to eliminate a requirement relating to agricultural or horticultural use zoning; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 700.** Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to attorneys; to amend sections 7-101, 7-103, 7-109, and 7-110, Reissue Revised Statutes of Nebraska; to state findings; to change provisions relating to the authorized and unauthorized practice of law; to provide and change powers and duties; and to repeal the original sections.

**LEGISLATIVE BILL 701.** Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to state government; to amend sections 23-2502, 49-506, 49-617, 49-14,121, 55-150, 72-1242, 73-509, 81-101, 81-102, 81-1301, 81-1302, 81-1304, 81-1306 to 81-1307.02, 81-1311, 81-1312, 81-1314, 81-1315, 81-1318 to 81-1318.02, 81-1353, 81-1354.01, 81-1354.03, 81-1354.04, 81-1357, 81-1371, 81-1374 to 81-1376, 81-1386, 81-1393, 81-1424, 84-1511, and 84-1617, Reissue Revised Statutes of Nebraska, and sections 9-807, 77-5004, 81-1108, 81-1113, 81-1316, 81-1317, 81-1354.05, 81-1373, 81-3601, 84-1503.03, 84-1601 to 84-1603, 84-1605, 84-1606, 84-1613, and 84-1616, Revised Statutes Supplement, 2004; to name the State Personnel System Act; to create the Department of Personnel; to rename a fund; to eliminate the personnel division of the Department of Administrative Services; to transfer, change, and provide powers and duties; to eliminate obsolete provisions; to harmonize

provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 81-1303 and 81-1305, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 702.** Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-103 and 53-168, Reissue Revised Statutes of Nebraska; to define a term; to provide for use of cash or cash equivalent as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 703.** Introduced by McDonald, 41; Chambers, 11; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to the Nebraska Treatment and Corrections Act; to amend section 83-1,135, Revised Statutes Supplement, 2004; to provide for medical parole; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 704.** Introduced by McDonald, 41; Burling, 33; Kremer, 34.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend section 79-1008.01, Revised Statutes Supplement, 2004; to change provisions relating to equalization aid; to harmonize provisions; and to repeal the original section.

#### **SENATOR JANSSEN PRESIDING**

**LEGISLATIVE BILL 705.** Introduced by McDonald, 41; Byars, 30; Combs, 32; Jensen, 20; Price, 26.

A BILL FOR AN ACT relating to health and human services; to provide for a study and subsequent pilot program by the Department of Health and Human Services Regulation and Licensure; and to provide a termination date.

**LEGISLATIVE BILL 706.** Introduced by McDonald, 41; Loudon, 49.

A BILL FOR AN ACT relating to fence viewing; to amend sections 2-4801, 34-104, 34-105, and 34-107 to 34-111, Reissue Revised Statutes of Nebraska; to eliminate fence viewing as a resolution option for fence disputes; to provide for mediation for resolution of fence disputes; to harmonize provisions; to provide an operative date; to repeal the original sections; to outright repeal section 34-106, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**LEGISLATIVE BILL 707.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to counties; to provide for emergency alarm system registration and false alarm fees.

**LEGISLATIVE BILL 708.** Introduced by Kremer, 34; Beutler, 28; Bourne, 8; Synowiecki, 7.

A BILL FOR AN ACT relating to ground water; to amend sections 46-706, 46-714, 46-715, 46-735, 46-739, and 46-742, Reissue Revised Statutes of Nebraska; to change provisions relating to the domestic use of ground water; to define a term; and to repeal the original sections.

**LEGISLATIVE BILL 709.** Introduced by Erdman, 47; Aguilar, 35; Baker, 44; Beutler, 28; Bourne, 8; Brown, 6; Burling, 33; Byars, 30; Combs, 32; Connealy, 16; Cornett, 45; Cudaback, 36; Cunningham, 40; Engel, 17; Flood, 19; Foley, 29; Friend, 10; Heidemann, 1; Hudkins, 21; Jensen, 20; Johnson, 37; Kremer, 34; Kruse, 13; Langemeier, 23; Loudon, 49; Mines, 18; Dw. Pedersen, 39; D. Pederson, 42; Preister, 5; Price, 26; Redfield, 12; Schimek, 27; Smith, 48; Stuhr, 24; Stuthman, 22; Synowiecki, 7; Wehrbein, 2.

A BILL FOR AN ACT relating to medicaid; to adopt the Medicaid Reform Act; to provide a termination date; and to declare an emergency.

**LEGISLATIVE BILL 710.** Introduced by Erdman, 47.

A BILL FOR AN ACT relating to retirement; to amend sections 16-1005, 16-1006, and 16-1018, Reissue Revised Statutes of Nebraska, and section 16-1017, Revised Statutes Supplement, 2004; to change provisions relating to the retirement system for police in cities of the first class; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 711.** Introduced by Erdman, 47.

A BILL FOR AN ACT relating to law enforcement; to amend section 16-1004, Reissue Revised Statutes of Nebraska; to provide a retirement benefit for law enforcement officers in cities of the first and second classes and villages; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 712.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to prescriptions; to adopt the Healthy Nebraska Rx Card Program Act; to provide a duty for the department; to provide an operative date; to provide severability; and to declare an emergency.

**LEGISLATIVE BILL 713.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to sexual assault; to amend section 28-902, Reissue Revised Statutes of Nebraska, and section 29-110, Revised Statutes

Supplement, 2004; to change provisions relating to evidentiary procedure, statutes of limitations, and reporting requirements; to provide duties to medical and law enforcement personnel; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

**LEGISLATIVE BILL 714.** Introduced by Smith, 48.

A BILL FOR AN ACT relating to jails and correctional facilities; to amend sections 47-502, 47-701, 47-703, and 47-705, Reissue Revised Statutes of Nebraska, and section 29-2262, Revised Statutes Supplement, 2004; to provide for medical services copayments as prescribed; to adopt the Prisoner Reimbursement to the County Act; to provide powers and duties; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 715.** Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to the Nebraska Public Safety Wireless Communication System Act; to amend sections 77-2701, 77-2701.04, 86-401, 86-403, 86-405, 86-406, 86-410 to 86-418, 86-516, 86-543, and 86-572, Revised Statutes Supplement, 2004; to provide a sales and use tax exemption for the alliance; to change the alliance and its powers and duties; to change provisions relating to the system; to eliminate the Public Safety Wireless Communication Advisory Board; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; to outright repeal sections 86-404, 86-407, and 86-419, Revised Statutes Supplement, 2004; and to declare an emergency.

**LEGISLATIVE BILL 716.** Introduced by Engel, 17; Aguilar, 35; Bourne, 8; Brown, 6; Connealy, 16; Cunningham, 40; Erdman, 47; Flood, 19; Foley, 29; Jensen, 20; Johnson, 37; Kremer, 34; Mines, 18; Smith, 48.

A BILL FOR AN ACT relating to economic development; to create the Advantage Nebraska Workforce Training Institute as a division of the Department of Economic Development; and to provide powers and duties.

**LEGISLATIVE BILL 717.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend section 77-3442, Revised Statutes Supplement, 2004; to adopt the Reorganization Building Aid Act; to provide for appropriations; to change provisions relating to a tax levy; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 718.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to the Educational Service Units Act; to amend sections 79-1201, 79-1217, 79-1222, 79-1224, 79-1226, 79-1227, 79-1232, 79-1241, and 79-1244, Reissue Revised Statutes of Nebraska, and section 77-3442, Revised Statutes Supplement, 2004; to change provisions

relating governing boards and a tax levy; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 32-515, 79-1212, 79-1225, and 79-1242, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 719.** Introduced by Howard, 9; Byars, 30; Cunningham, 40; Jensen, 20; Price, 26; Redfield, 12.

A BILL FOR AN ACT relating to the Nebraska Juvenile Code; to eliminate certain payments to guardians; and to outright repeal section 43-284.02, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 720.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.15, Revised Statutes Supplement, 2004; to exempt railroad transportation safety districts from sales taxation; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 721.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-301, 60-302, 60-310, 60-311, 60-311.02, 60-311.10, 60-311.11, 60-311.14, 60-325, 60-336, 60-6,355, 60-3004, and 60-3007, Reissue Revised Statutes of Nebraska; to provide for registration of all-terrain vehicles and minibikes; to provide for fees and taxes; to provide penalties; to harmonize provisions; to provide an operative date; and to repeal the original sections.

**LEGISLATIVE BILL 722.** Introduced by Schrock, 38.

A BILL FOR AN ACT relating to electricity; to define terms; to provide for use of public power infrastructure; to provide applicability; to provide a duty for the Revisor of Statutes; and to provide severability.

**LEGISLATIVE BILL 723.** Introduced by Smith, 48; Friend, 10.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701.02, Reissue Revised Statutes of Nebraska, and section 77-2701, Revised Statutes Supplement, 2004; to change the sales tax rate; to establish a process to adjust the sales tax rate; and to repeal the original sections.

**LEGISLATIVE BILL 724.** Introduced by Stuthman, 22; Cornett, 45; Friend, 10; Hudkins, 21; Janssen, 15; Jensen, 20; Landis, 46; Stuhr, 24.

A BILL FOR AN ACT relating to child abuse and neglect; to amend section 43-1303, Reissue Revised Statutes of Nebraska, and sections 28-726 and 28-728, Revised Statutes Supplement, 2004; to provide for a pilot project relating to investigation and prosecution; to harmonize provisions; and to

repeal the original sections.

**LEGISLATIVE BILL 725.** Introduced by Stuthman, 22; Combs, 32; Synowiecki, 7.

A BILL FOR AN ACT relating to medication; to adopt the Community Health Medication Distribution Act.

**LEGISLATIVE BILL 726.** Introduced by Stuthman, 22; Cornett, 45.

A BILL FOR AN ACT relating to the Nebraska Mental Health Commitment Act; to amend sections 71-901 and 71-919, Revised Statutes Supplement, 2004; to change provisions relating to emergency protective custody; to provide for crisis response teams; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 727.** Introduced by Stuthman, 22.

A BILL FOR AN ACT relating to courts; to amend section 33-106, Reissue Revised Statutes of Nebraska; to require a change of venue docket fee; and to repeal the original section.

**LEGISLATIVE BILL 728.** Introduced by Stuthman, 22; Kruse, 13.

A BILL FOR AN ACT relating to public health and welfare; to define terms; to create the Provider Reimbursement Advisory Committee; to provide powers and duties; to provide an operative date; and to declare an emergency.

**LEGISLATIVE BILL 729.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to courts; to amend section 33-106, Reissue Revised Statutes of Nebraska; to change provisions relating to district court fees; to provide an operative date; and to repeal the original section.

**LEGISLATIVE BILL 730.** Introduced by Bourne, 8; Synowiecki, 7.

A BILL FOR AN ACT relating to the Nebraska Clean Indoor Air Act; to amend sections 71-5701, 71-5703, 71-5704, and 71-5709 to 71-5712, Reissue Revised Statutes of Nebraska; to provide for retail tobacco businesses; to define a term; to provide for applicability; to change a penalty provision; to harmonize provisions; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 731.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to environmental protection; to amend section 81-1532, Revised Statutes Supplement, 2004; to provide requirements for rules and regulations; to harmonize provisions; and to

repeal the original section.

**LEGISLATIVE BILL 732.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to retirement; to amend sections 79-916 and 79-966, Revised Statutes Supplement, 2004; to change state deposits for school retirement as prescribed; to provide an operative date; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 733.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to gambling; to amend sections 9-307, 9-313, 9-317, 9-332, 9-332.01, 9-333, 9-334, 9-336, 9-337, 9-340, 9-342, 9-343, 9-345.02, 9-348, 9-350, 9-351, 9-352, 28-1101, and 77-3001, Reissue Revised Statutes of Nebraska, and sections 9-301, 9-303, 9-304, 9-315, 9-322, 9-329.02, 9-331, 9-338, 9-340.02, 9-345.01, 9-345.03, 9-346, 9-347, and 9-349, Revised Statutes Supplement, 2004; to change provisions relating to the Nebraska Pickle Card Lottery Act; to authorize the use of electronic pickle card devices as prescribed; to define and redefine terms; to provide and change powers and duties; to harmonize provisions; to provide severability; and to repeal the original sections.

**LEGISLATIVE BILL 734.** Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Combs, 32; Connealy, 16; Cornett, 45; Janssen, 15; Landis, 46; Schimek, 27.

A BILL FOR AN ACT relating to sanitary and improvement districts; to amend section 31-735, Reissue Revised Statutes of Nebraska; to change provisions relating to the election of a board of trustees; and to repeal the original section.

**LEGISLATIVE BILL 735.** Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Combs, 32; Connealy, 16; Cornett, 45; Janssen, 15; Landis, 46; Schimek, 27.

A BILL FOR AN ACT relating to cities and villages; to amend sections 17-405.01, 18-2107, 18-2142.01, and 18-2144, Reissue Revised Statutes of Nebraska, and sections 18-2113, 18-2117.01, 18-2147, and 18-2153, Revised Statutes Supplement, 2004; to change provisions relating to the Community Development Law; to change and eliminate provisions relating to cost-benefit analysis; to change provisions relating to ad valorem taxes; to harmonize provisions; to repeal the original sections; and to outright repeal section 18-2147.01, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 736.** Introduced by Brown, 6.

A BILL FOR AN ACT relating to safety; to amend sections 48-418, 48-418.02, and 48-418.05, Reissue Revised Statutes of Nebraska; to adopt the Elevator Safety Act; to eliminate provisions relating to elevator

inspection and a fund; to create a fund; to provide a penalty; to provide an operative date; to repeal the original sections; and to outright repeal sections 48-418.01, 48-418.03, 48-418.04, 48-418.06 to 48-418.12, and 48-418.14, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 737.** Introduced by Business and Labor Committee: Cunningham, 40, Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5; Schimek, 27.

A BILL FOR AN ACT relating to claims against the state; to appropriate funds for the payment of certain claims; to provide for payment of the claims; to authorize certain write-offs as prescribed; and to declare an emergency.

**LEGISLATIVE BILL 738.** Introduced by Cunningham, 40; Burling, 33; Combs, 32; Kremer, 34; Preister, 5; Schimek, 27.

A BILL FOR AN ACT relating to claims against the state; to disapprove certain claims.

**LEGISLATIVE BILL 739.** Introduced by Cunningham, 40; Burling, 33; Combs, 32; Kremer, 34; Redfield, 12.

A BILL FOR AN ACT relating to the Employment Security Law; to amend sections 48-601, 48-602, 48-603.01, 48-624, 48-625, 48-627, 48-628, and 48-649, Reissue Revised Statutes of Nebraska; to provide for an insured unemployment rate and an emergency solvency surcharge; to change provisions relating to the average weekly wage, wages subject to tax, computation of benefits, eligibility conditions, and combined tax rate; to harmonize provisions; to provide operative dates; and to repeal the original sections.

**LEGISLATIVE BILL 740.** Introduced by Schimek, 27.

A BILL FOR AN ACT relating to the Political Subdivisions Tort Claims Act; to amend sections 13-919 and 13-920, Reissue Revised Statutes of Nebraska; to change provisions relating to the limitation of actions for certain political subdivisions; and to repeal the original sections.

**LEGISLATIVE BILL 741.** Introduced by Connealy, 16.

A BILL FOR AN ACT relating to railroad carriers; to amend sections 75-109.01, 75-401, 75-402, and 75-405, Reissue Revised Statutes of Nebraska; to provide powers and duties for the Public Service Commission with respect to safe walkways for railroad carrier workers; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 742.** Introduced by Connealy, 16.

A BILL FOR AN ACT relating to railroads; to amend sections 75-109.01, 75-401, 75-402, and 75-405, Reissue Revised Statutes of Nebraska; to provide powers and duties for the Public Service Commission to identify hazardous railroad areas; to harmonize provisions; to provide severability; and to repeal the original sections.

**LEGISLATIVE BILL 743.** Introduced by Connealy, 16.

A BILL FOR AN ACT relating to railroad carriers; to amend sections 75-109.01, 75-401, 75-402, and 75-405, Reissue Revised Statutes of Nebraska; to require safety and accident reports from railroad carriers as prescribed; to provide powers and duties for the Public Service Commission; to harmonize provisions; to provide severability; and to repeal the original sections.

**LEGISLATIVE BILL 744.** Introduced by Price, 26; Combs, 32.

A BILL FOR AN ACT relating to assisted-living facilities; to amend sections 71-5903, 71-5905, and 71-5906, Revised Statutes Supplement, 2004; to change provisions relating to complex nursing interventions and medication duties; to harmonize provisions; and to repeal the original sections.

**LEGISLATIVE BILL 745.** Introduced by Synowiecki, 7; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to horseracing; to amend section 2-1203.01, Reissue Revised Statutes of Nebraska; to authorize the State Racing Commission to license and regulate wagering on historic races; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 746.** Introduced by D. Pederson, 42; Brashear, 4; Chambers, 11.

A BILL FOR AN ACT relating to appropriations; to state intent; to create a fund; to provide for grants to civil legal services providers; and to appropriate funds.

## **SENATOR CUDABACK PRESIDING**

**LEGISLATIVE BILL 747.** Introduced by Synowiecki, 7; Combs, 32; Connealy, 16; Cornett, 45; Cunningham, 40; Foley, 29; Friend, 10; Howard, 9; Kopplin, 3; Kruse, 13; Mines, 18; Pahls, 31; Dw. Pedersen, 39; Preister, 5; Stuthman, 22; Thompson, 14.

A BILL FOR AN ACT relating to probation and parole; to amend sections 29-2252.01, 29-2253, 29-2256, 29-2262.03, 29-2262.04, 29-2262.05, 29-2265, 29-2268, 29-2270, 33-107.03, 33-154, 43-250, 43-253, 43-260, 43-260.05, 43-271, 43-274, 43-286, 43-294, 43-2,108, 43-2,113, 43-707,

43-2411, 43-3001, 43-3505, 43-3507, 47-623, 47-624, 47-627, 47-628, 47-629, 68-1729, 68-1732, 83-170, 83-171, 83-188, 83-189, 83-195, 83-197, 83-1,109, 83-1,116, 83-1,119, 83-1,120, 83-1,128, 83-901, and 83-932, Reissue Revised Statutes of Nebraska, and sections 20-150, 20-151, 24-205, 24-227.01, 25-2407, 28-322, 29-2246, 29-2248, 29-2250, 29-2254, 29-2257, 29-2258, 29-2259, 29-2259.01, 29-2259.02, 29-2260.01, 29-2261, 29-2262, 29-2262.06, 29-2262.07, 29-2263, 29-2266, 29-2272, 29-2935, 29-4009, 81-1401, 81-1848, 83-1,107, 83-1,107.01, 83-1,107.02, and 83-1,125, Revised Statutes Supplement, 2004; to adopt the Department of Probation and Parole Services Act; to change, transfer, and eliminate provisions relating to the Nebraska Probation Administration Act, the Nebraska Treatment and Corrections Act, probation, and parole; to change provisions relating to funds, confidentiality, and penalties as prescribed; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; and to outright repeal sections 29-2249, 29-2251, 83-1,100, 83-1,100.01, 83-1,101, 83-1,103, and 83-1,104, Reissue Revised Statutes of Nebraska, and sections 29-2252, 83-1,102, and 83-933, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 748.** Introduced by Bourne, 8; Janssen, 15; Kremer, 34; Synowiecki, 7.

A BILL FOR AN ACT relating to natural gas; to amend sections 16-6,101, 57-1302, 66-1803, 66-1848, and 76-703, Reissue Revised Statutes of Nebraska, and sections 13-2802, 14-2116, 16-645, 16-674, 17-559, 18-2520, 18-2523, 18-2528, and 19-709, Revised Statutes Supplement, 2004; to change provisions relating to natural gas; to eliminate the Municipal Natural Gas System Condemnation Act; to state intent; to define and redefine terms; to provide powers and duties; harmonize provisions; to repeal the original sections; to outright repeal sections 19-4624 to 19-4645, Revised Statutes Supplement, 2004; and to declare an emergency.

**LEGISLATIVE BILL 749.** Introduced by Foley, 29.

A BILL FOR AN ACT relating to child labor; to amend section 48-310, Reissue Revised Statutes of Nebraska; to prohibit certain employments as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 750.** Introduced by Foley, 29.

A BILL FOR AN ACT relating to crimes and offenses; to adopt the Human Embryonic Research Funding Prohibition Act; and to provide penalties.

**LEGISLATIVE BILL 751.** Introduced by Foley, 29.

A BILL FOR AN ACT relating to the Nebraska Telecommunications Universal Service Fund; to provide for a transfer of funds.

**LEGISLATIVE BILL 752.** Introduced by Foley, 29.

A BILL FOR AN ACT relating to abortion; to amend sections 28-101, 28-326, 28-327, and 28-327.01, Revised Statutes Supplement, 2004; to provide for information related to fetal pain; to provide duties; and to repeal the original sections.

**LEGISLATIVE BILL 753.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2704.55, Revised Statutes Supplement, 2004; to change a sales tax exemption relating to construction services; and to repeal the original section.

**LEGISLATIVE BILL 754.** Introduced by Chambers, 11.

A BILL FOR AN ACT relating to the Commission on Judicial Qualifications; to amend section 24-721, Revised Statutes Supplement, 2004; to change provisions relating to judicial reprimands; and to repeal the original section.

**LEGISLATIVE BILL 755.** Introduced by Chambers, 11.

A BILL FOR AN ACT relating to criminal procedure; to prohibit the taking of a DNA sample by law enforcement without probable cause; to provide a penalty; and to declare an emergency.

**LEGISLATIVE BILL 756.** Introduced by Chambers, 11.

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-3303, Reissue Revised Statutes of Nebraska; to change issuance requirements for orders authorizing identification procedures; and to repeal the original section.

**LEGISLATIVE BILL 757.** Introduced by Chambers, 11; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to the Governor; to amend section 84-106, Revised Statutes Supplement, 2004; to change provisions relating to the supervision and assignment of appointed deputy state sheriffs as prescribed; and to repeal the original section.

**LEGISLATIVE BILL 758.** Introduced by Chambers, 11.

A BILL FOR AN ACT relating to notaries public; to amend section 64-113, Revised Statutes Supplement, 2004; to eliminate the authority of notaries public to summon and punish witnesses; to harmonize provisions; to repeal the original section; and to outright repeal section 64-108, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 759.** Introduced by Chambers, 11.

A BILL FOR AN ACT relating to employment; to amend sections 13-1102, 20-113, 20-131, 23-2525, 23-2531, 23-2541, 48-215, 48-1101 to 48-1107, 48-1107.02, 48-1108, 48-1110 to 48-1126, 79-2,123, 81-1355, 81-1356, and 85-9,175, Reissue Revised Statutes of Nebraska, and sections 20-139 and 25-2602.01, Revised Statutes Supplement, 2004; to rename the Nebraska Fair Employment Practice Act; to define terms; to prohibit employment discrimination based upon sexual orientation; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to outright repeal section 48-1109, Reissue Revised Statutes of Nebraska.

**LEGISLATIVE BILL 760.** Introduced by Chambers, 11.

A BILL FOR AN ACT relating to criminal procedure; to amend sections 23-3406, 24-1106, 25-1140.09, 27-609, 28-104, 29-1822, 29-2005, 29-2006, 29-2020, 29-2282, 29-2407, 29-2801, 29-3205, 29-3928, and 55-480, Reissue Revised Statutes of Nebraska, and sections 27-803, 28-105, 28-303, 29-1603, 29-2004, 29-2027, 29-2204, 29-2520, 29-2521, 29-2522, 29-2523, 29-3920, 29-3922, 29-3929, 29-3930, 83-1,105.01, and 83-4,143, Revised Statutes Supplement, 2004; to change a penalty from death to life imprisonment without possibility of parole as prescribed; to provide for restitution; to harmonize provisions; to eliminate capital punishment provisions; to repeal the original sections; and to outright repeal sections 24-1105, 29-2521.01, 29-2521.03, 29-2521.04, 29-2524.01, 29-2524.02, 29-2527, 29-2528, 29-2532 to 29-2546, 29-2811, and 83-1,132, Reissue Revised Statutes of Nebraska, and sections 28-105.01, 29-2519, 29-2521.02, 29-2524, and 29-2525, Revised Statutes Supplement, 2004.

**LEGISLATIVE BILL 761.** Introduced by Thompson, 14; Bourne, 8; Brown, 6; Engel, 17; Kruse, 13; D. Pederson, 42; Price, 26; Synowiecki, 7.

A BILL FOR AN ACT relating to the State Foster Care Review Board; to amend section 43-1302, Reissue Revised Statutes of Nebraska; to change provisions relating to membership; to harmonize provisions; and to repeal the original section.

**LEGISLATIVE BILL 762.** Introduced by Engel, 17; Stuthman, 22; Wehrbein, 2.

A BILL FOR AN ACT relating to county government; to amend section 77-1501, Reissue Revised Statutes of Nebraska, and section 23-1302, Revised Statutes Supplement, 2004; to provide for appointments by the county clerk as prescribed; and to repeal the original sections.

**LEGISLATIVE BILL 763.** Introduced by Engel, 17; Burling, 33; Combs, 32; Connealy, 16; Cudaback, 36; Cunningham, 40; Flood, 19; Janssen, 15; Dw. Pedersen, 39; D. Pederson, 42; Raikes, 25; Schrock, 38; Thompson, 14.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-3523, Reissue Revised Statutes of Nebraska; to change reimbursement provisions for and provide for repayment of homestead exemption tax benefits as prescribed; and to repeal the original section.

## RESOLUTIONS

### LEGISLATIVE RESOLUTION 26CA. Introduced by Beutler, 28.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article IV, section 5:

IV-5 ~~All civil officers~~ A civil officer of this state shall be liable to impeachment for any misdemeanor in office or for any misdemeanor related to the election by which such officer was elected to the office.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to provide that misdemeanors related to election to office are grounds for impeachment of civil officers.

For

Against.

Referred to the Reference Committee.

### LEGISLATIVE RESOLUTION 27CA. Introduced by Langemeier, 23; Flood, 19; Heidemann, 1; Kopplin, 3; Kremer, 34; Pahls, 31; Stuhr, 24.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 10:

III-10 (1) Beginning with the year 1975, regular sessions of the Legislature shall be held annually, commencing after the 2006 statewide general election, the Legislature shall meet on the sixth Tuesday after the statewide general election to organize prior to the ninety-day legislative session and then the Legislature shall convene at 10 a. m. on the first Wednesday after the first Monday in January of each year. The term of each member holding office at the time of the 2006 statewide general election shall end on the sixth Tuesday after the statewide general election immediately prior to the end of the term to which the member was elected. The term of each member elected beginning with the 2006 statewide general election shall commence on the sixth Tuesday after the statewide general election at which the member was elected. The duration of regular sessions

held shall not exceed ninety legislative days in odd-numbered years, unless extended by a vote of four-fifths of all members elected to the Legislature, and shall not exceed sixty legislative days in even-numbered years not including the organizational day, unless extended by a vote of four-fifths of all members elected to the Legislature. Bills and resolutions under consideration by the Legislature upon adjournment of a regular session held in an odd-numbered year may be considered at the next regular session, as if there had been no such adjournment.

(2) The Lieutenant Governor shall preside, but shall vote only when the Legislature is equally divided. A majority of the members elected to the Legislature shall constitute a quorum; the Legislature shall determine the rules of its proceedings and be the judge of the election, returns, and qualifications of its members, shall choose its own officers, including a Speaker to preside when the Lieutenant Governor shall be absent, incapacitated, or shall act as Governor. No member shall be expelled except by a vote of two-thirds of all members elected to the Legislature, and no member shall be twice expelled for the same offense.

(3) The Legislature may punish by imprisonment any person not a member thereof who shall be guilty of disrespect to the Legislature by disorderly or contemptuous behavior in its presence, but no such imprisonment shall extend beyond twenty-four hours at one time, unless the person shall persist in such disorderly or contemptuous behavior.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to provide an organizational day prior to the ninety-day legislative session and to change the starting day of terms of office for members of the Legislature.

For

Against.

Referred to the Reference Committee.

#### **LEGISLATIVE RESOLUTION 28CA.** Introduced by Brashear, 4.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To repeal Article VII, section 14:

Article VII, section 14, of the Constitution of Nebraska is repealed.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to eliminate provisions relating to the creation, powers, and duties of the Coordinating Commission for Postsecondary Education.

For

Against.

Referred to the Reference Committee.

### **STANDING COMMITTEE REPORTS** **Agriculture**

**LEGISLATIVE BILL 20.** Placed on General File.

**LEGISLATIVE BILL 51.** Placed on General File.

(Signed) Bob Kremer, Chairperson

### **Banking, Commerce and Insurance**

**LEGISLATIVE BILL 59.** Placed on General File.

**LEGISLATIVE BILL 88.** Placed on General File.

**LEGISLATIVE BILL 118.** Placed on General File.

**LEGISLATIVE BILL 119.** Placed on General File as amended.

Standing Committee amendment to LB 119:

AM0016

- 1 1. Strike original sections 9 and 21.
- 2 2. On page 115, line 27, strike "44-789,".
- 3 3. On page 116, line 1, strike "44-5418,".
- 4 4. Renumber the remaining sections and correct internal
- 5 references accordingly.

(Signed) Mick Mines, Chairperson

### **NOTICE OF COMMITTEE HEARINGS** **Nebraska Retirement Systems** Room 1525

LB 411	Thursday, January 27, 2005	12:05 p.m.
LB 369	Thursday, January 27, 2005	12:05 p.m.
LB 412	Thursday, January 27, 2005	12:05 p.m.

(Signed) Elaine Stuhr, Chairperson

### **Revenue** Room 1524

LB 291	Wednesday, January 26, 2005	1:30 p.m.
LB 407	Wednesday, January 26, 2005	1:30 p.m.
LB 300	Wednesday, January 26, 2005	1:30 p.m.
LB 324	Wednesday, January 26, 2005	1:30 p.m.
LB 499	Wednesday, January 26, 2005	1:30 p.m.
LB 399	Wednesday, January 26, 2005	1:30 p.m.

(Signed) David Landis, Chairperson

**Natural Resources**

Room 1525

LB 508      Wednesday, January 26, 2005      1:30 p.m.

Wednesday, January 26, 2005      1:30 p.m.

Donald Kohtz - Nebraska Power Review Board

LB 544      Thursday, January 27, 2005      1:30 p.m.

(Signed) Ed Schrock, Chairperson

**ANNOUNCEMENT**

The Intergovernmental Cooperation Committee elected Senator McDonald as Vice Chairperson.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Connealy asked unanimous consent to have his name added as cointroducer to LBs 7, 454, and 656. No objections. So ordered.

Senator Howard asked unanimous consent to have her name added as cointroducer to LB 28. No objections. So ordered.

Senator Brown asked unanimous consent to have her name added as cointroducer to LB 79. No objections. So ordered.

Senators Cudaback, Engel, and Johnson asked unanimous consent to have their names added as cointroducers to LB 273. No objections. So ordered.

Senator Cudaback asked unanimous consent to have his name added as cointroducer to LBs 384 and 414. No objections. So ordered.

Senator Engel asked unanimous consent to have his name added as cointroducer to LB 516. No objections. So ordered.

Senator Thompson asked unanimous consent to have her name added as cointroducer to LB 572. No objections. So ordered.

Senator Kruse asked unanimous consent to have his name added as cointroducer to LB 598. No objections. So ordered.

**REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB 373	Government, Military and Veterans Affairs (rereferred)
LB 483	Government, Military and Veterans Affairs (rereferred)
LB 547	Health and Human Services
LB 548	Health and Human Services
LB 549	Health and Human Services
LB 550	Health and Human Services
LB 551	Health and Human Services
LB 552	Natural Resources
LB 553	Natural Resources
LB 554	Business and Labor
LB 555	Revenue
LB 556	Education
LB 557	Revenue
LB 558	Transportation and Telecommunications
LB 559	Transportation and Telecommunications
LB 560	Appropriations
LB 561	Education
LB 562	General Affairs
LB 563	General Affairs
LB 564	Banking, Commerce and Insurance
LB 565	Government, Military and Veterans Affairs
LB 566	Government, Military and Veterans Affairs
LB 567	Judiciary
LB 568	Banking, Commerce and Insurance
LB 569	Health and Human Services
LB 570	Banking, Commerce and Insurance
LB 571	Revenue
LB 572	Judiciary
LB 573	General Affairs
LB 574	Education
LB 575	Revenue
LB 576	Revenue
LB 577	Education
LB 578	Revenue
LB 579	Education
LB 580	Judiciary
LB 581	Government, Military and Veterans Affairs
LB 582	Revenue
LB 583	Education
LB 584	Judiciary
LB 585	Judiciary
LB 586	Health and Human Services
LB 587	Transportation and Telecommunications
LB 588	Executive Board
LB 589	Banking, Commerce and Insurance
LB 590	Business and Labor
LB 591	Government, Military and Veterans Affairs
LB 592	Judiciary

LB 593	Appropriations
LB 594	Judiciary
LB 595	Education
LB 596	Education
LB 597	Transportation and Telecommunications
LB 598	Revenue
LB 599	General Affairs
LB 600	Revenue
LB 601	Natural Resources
LB 602	Government, Military and Veterans Affairs
LB 603	Health and Human Services
LB 604	Health and Human Services
LB 605	Appropriations
LB 606	Health and Human Services
LB 607	Revenue
LB 608	Business and Labor
LB 609	Judiciary
LB 610	Revenue
LB 611	Judiciary
LB 612	Revenue
LB 613	Health and Human Services
LB 614	Appropriations
LB 615	Revenue
LB 616	Education
LR 23	Education
LR 24CA	Government, Military and Veterans Affairs
LR 25CA	Government, Military and Veterans Affairs

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

### **VISITORS**

Visitors to the Chamber were Ilene Grossman from Chicago; and Justin Dalton from Lincoln.

### **ADJOURNMENT**

At 12:27 p.m., on a motion by Senator Erdman, the Legislature adjourned until 11:00 a.m., Thursday, January 20, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**ELEVENTH DAY - JANUARY 20, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**ELEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, January 20, 2005

**PRAYER**

The prayer was offered by Senator Hudkins.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 11:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brashear, Brown, Foley, Janssen, Jensen, Langemeier, and Smith who were excused.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the tenth day was approved.

**STANDING COMMITTEE REPORTS**  
**Natural Resources**

**LEGISLATIVE BILL 33.** Placed on General File.

**LEGISLATIVE BILL 21.** Placed on General File as amended.

Standing Committee amendment to LB 21:

AM0027

- 1 1. Insert the following new section:
- 2 "Sec. 3. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

**LEGISLATIVE BILL 29.** Placed on General File as amended.

Standing Committee amendment to LB 29:

AM0026

- 1 1. Insert the following new section:
- 2 "Sec. 3. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

(Signed) Ed Schrock, Chairperson

**Revenue****LEGISLATIVE BILL 261.** Placed on General File.

(Signed) David Landis, Chairperson

**UNANIMOUS CONSENT - Time Change**

Senator Stuhr asked unanimous consent to permit the Nebraska Retirement Systems Committee to begin the hearing scheduled for Tuesday, January 25, 2005, at 8:30 a.m. rather than 9:00 a.m. No objections. So ordered.

**MESSAGES FROM THE GOVERNOR**

January 18, 2005

President, Speaker Brashear,  
Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Please withdraw the following names from confirmation to the Natural Resources Commission:

Wayne Madsen  
Roger Korell

Thank you.

Sincerely,  
(Signed) Mike Johanns  
Governor

January 18, 2005

President, Speaker Brashear,  
Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Please withdraw Jim Van Marter, Jr.'s name from confirmation to the Natural Resources Commission.

Thank you.

Sincerely,  
(Signed) Mike Johanns  
Governor

**NOTICE OF COMMITTEE HEARING**  
**Revenue**  
Room 1524

LB 555	Thursday, January 27, 2005	1:30 p.m.
LB 248	Thursday, January 27, 2005	1:30 p.m.
LB 155	Thursday, January 27, 2005	1:30 p.m.
LB 252	Thursday, January 27, 2005	1:30 p.m.
LB 253	Thursday, January 27, 2005	1:30 p.m.
LB 456	Thursday, January 27, 2005	1:30 p.m.

(Signed) David Landis, Chairperson

**STANDING COMMITTEE REPORT**  
**Urban Affairs**

**LEGISLATIVE BILL 169.** Placed on General File as amended.

Standing Committee amendment to LB 169:

AM0013

1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 18-1803, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 18-1803. Any city or village shall have the power to  
6 issue revenue bonds (1) for any public the purpose of acquiring,  
7 ~~constructing, reconstructing, improving, extending, equipping, or~~  
8 ~~furnishing in connection with or relating to~~ any revenue-producing  
9 facility within or without its corporate limits that the  
10 municipality has power to acquire, construct, reconstruct, extend,  
11 equip, improve, or operate, (2) and for any purpose necessary or  
12 ~~incidental to any of the foregoing and~~ for the purpose of refunding  
13 any such bonds, and (3) for the purpose of refunding general  
14 obligation bonds of the city or village issued to construct part or  
15 all of such revenue-producing facilities including refunding any  
16 general obligation bonds which may have been issued to refund any  
17 bonds issued to construct part or all of such revenue-producing  
18 facilities. For the purposes of sections 18-1803 to 18-1805, bonds  
19 shall mean and include bonds, notes, warrants or debentures,  
20 including notes issued pending permanent revenue bond financing.  
21 For the purposes of sections 18-1803 to 18-1805, facility shall  
22 mean and include, but not be limited to, all or part of a  
23 revenue-producing undertaking, such as a health care facility,  
24 waterworks plant, water system, sanitary sewer system, sewage  
1 disposal plant, gas plant, electric light and power plant, electric

2 distribution system, or airport facility, including an ownership  
3 interest in any such undertaking, or any combination of two or more  
4 such undertakings or an interest or interests therein.  
5 Sec. 2. Original section 18-1803, Reissue Revised  
6 Statutes of Nebraska, is repealed."

(Signed) Mike Friend, Chairperson

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Fischer asked unanimous consent to have her name added as cointroducer to LB 373. No objections. So ordered.

Senator D. Pederson asked unanimous consent to have his name added as cointroducer to LBs 741, 742, and 743. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Ilene Grossman and Tim Anderson from Lombard, Illinois; and Paul Davis from Lakeside.

### **ADJOURNMENT**

At 11:17 a.m., on a motion by Senator Beutler, the Legislature adjourned until 10:00 a.m., Friday, January 21, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**TWELFTH DAY - JANUARY 21, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****TWELFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, January 21, 2005

**PRAYER**

The prayer was offered by Senator Heidemann.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Brashear presiding.

The roll was called and all members were present except Senators Foley, Langemeier, and Smith who were excused; and Senator Chambers who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eleventh day was approved.

**MESSAGE FROM THE GOVERNOR**

January 19, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed as Director of the Department of Banking and Finance.

**APPOINTEE:**

John Munn, 1177 Cherl Drive, Syracuse NE 68446

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Mike Johanns  
Governor

web/  
Enclosure

### MESSAGE FROM THE GOVERNOR

January 20, 2005

Speaker Kermit Brashear  
Nebraska Legislature  
State Capitol Building – Room 2103  
Lincoln, NE 68509

Dear Speaker Brashear:

Pursuant to Neb.Rev.Stat. Section 32-562, I hereby resign my position as Governor of the State of Nebraska, effective today at 3:00 pm.

Sincerely,  
(Signed) Mike Johanns  
Governor

cjc

### COMMUNICATION

January 20, 2005

The Honorable Mike Johanns  
Governor, State of Nebraska  
State Capitol  
Lincoln, NE 68509

Dear Governor Johanns,

Greetings! On behalf of the Nebraska Unicameral Legislature, I hereby accept your resignation as Governor of the State of Nebraska.

Please accept my congratulations on your new position as the U.S. Secretary of Agriculture. Best wishes in your new position.

Cordially,  
(Signed) Kermit A. Brashear  
Speaker of the Legislature

**REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB 617	Judiciary
LB 618	Health and Human Services
LB 619	Natural Resources
LB 620	Judiciary
LB 621	Judiciary
LB 622	Education
LB 623	Health and Human Services
LB 624	Education
LB 625	Health and Human Services
LB 626	Urban Affairs
LB 627	Education
LB 628	Revenue
LB 629	Urban Affairs
LB 630	Urban Affairs
LB 631	Transportation and Telecommunications
LB 632	Judiciary
LB 633	Judiciary
LB 634	Education
LB 635	Revenue
LB 636	Education
LB 637	Education
LB 638	Natural Resources
LB 639	Transportation and Telecommunications
LB 640	Banking, Commerce and Insurance
LB 641	Business and Labor
LB 642	Judiciary
LB 643	Judiciary
LB 644	Revenue
LB 645	Transportation and Telecommunications
LB 646	Revenue
LB 647	Banking, Commerce and Insurance
LB 648	Judiciary
LB 649	Judiciary
LB 650	Judiciary
LB 651	Urban Affairs
LB 652	Banking, Commerce and Insurance
LB 653	Judiciary
LB 654	Judiciary
LB 655	Banking, Commerce and Insurance
LB 656	Business and Labor
LB 657	Government, Military and Veterans Affairs
LB 658	Natural Resources
LB 659	Appropriations
LB 660	Judiciary

LB 661	Business and Labor
LB 662	Urban Affairs
LB 663	Transportation and Telecommunications
LB 664	Health and Human Services
LB 665	Transportation and Telecommunications
LB 666	Health and Human Services
LB 667	Revenue
LB 668	General Affairs
LB 669	Judiciary
LB 670	Judiciary
LB 671	Government, Military and Veterans Affairs
LB 672	Revenue
LB 673	Agriculture
LB 674	Judiciary
LB 675	Transportation and Telecommunications
LB 676	Banking, Commerce and Insurance
LB 677	Judiciary
LB 678	Transportation and Telecommunications
LB 679	Appropriations
LB 680	Natural Resources
LB 681	Education
LB 682	Government, Military and Veterans Affairs
LB 683	Government, Military and Veterans Affairs
LB 684	Government, Military and Veterans Affairs
LB 685	Government, Military and Veterans Affairs
LB 686	Banking, Commerce and Insurance
LB 687	Revenue
LB 688	Banking, Commerce and Insurance
LB 689	Education
LB 690	Education
LB 691	Nebraska Retirement Systems
LB 692	Revenue
LB 693	Banking, Commerce and Insurance
LB 694	Appropriations
LB 695	Revenue
LB 696	Revenue
LB 697	Transportation and Telecommunications
LB 698	Urban Affairs
LB 699	Revenue
LB 700	Judiciary
LB 701	Government, Military and Veterans Affairs
LB 702	General Affairs
LB 703	Judiciary
LB 704	Education
LB 705	Health and Human Services
LB 706	Agriculture
LB 707	Government, Military and Veterans Affairs
LB 708	Natural Resources
LB 709	Health and Human Services

LB 710	Nebraska Retirement Systems
LB 711	Nebraska Retirement Systems
LB 712	Health and Human Services
LB 713	Judiciary
LB 714	Judiciary
LB 715	Transportation and Telecommunications
LB 716	Banking, Commerce and Insurance
LB 717	Education
LB 718	Education
LB 719	Health and Human Services
LB 720	Revenue
LB 721	Transportation and Telecommunications
LB 723	Revenue
LB 724	Judiciary
LB 725	Health and Human Services
LB 726	Judiciary
LB 727	Judiciary
LB 728	Health and Human Services
LB 729	Judiciary
LB 730	Health and Human Services
LB 731	Natural Resources
LB 732	Nebraska Retirement Systems
LB 733	General Affairs
LB 734	Urban Affairs
LB 735	Urban Affairs
LB 736	Business and Labor
LB 737	Business and Labor
LB 738	Business and Labor
LB 739	Business and Labor
LB 740	Judiciary
LB 741	Business and Labor
LB 742	Transportation and Telecommunications
LB 743	Business and Labor
LB 744	Health and Human Services
LB 745	General Affairs
LB 746	Appropriations
LB 747	Judiciary
LB 748	Urban Affairs
LB 749	Business and Labor
LB 750	Judiciary
LB 751	Appropriations
LB 752	Judiciary
LB 753	Revenue
LB 754	Judiciary
LB 755	Judiciary
LB 756	Judiciary
LB 757	Judiciary
LB 758	Judiciary
LB 759	Judiciary

LB 760	Judiciary
LB 761	Government, Military and Veterans Affairs
LB 762	Government, Military and Veterans Affairs
LB 763	Revenue
LR 24CA	Education (rereferred)
LR 26CA	Judiciary
LR 27CA	Executive Board
LR 28CA	Education

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

## STANDING COMMITTEE REPORTS

### Agriculture

**LEGISLATIVE BILL 52.** Placed on General File as amended.

Standing Committee amendment to LB 52:

AM0021

1 1. Insert the following new sections:  
2 "Sec. 2. Section 75-903.02, Reissue Revised Statutes of  
3 Nebraska, is amended to read:  
4 75-903.02. For each application filed under section  
5 75-903 after January 1, 2004, one of the following primary parties  
6 shall be subject to fingerprinting and a check of his or her  
7 criminal history record information maintained by the Federal  
8 Bureau of Investigation through the Nebraska State Patrol: (1) If  
9 the applicant is not an individual, the chief executive officer,  
10 president, or general manager; or (2) if the applicant is an  
11 individual, the individual. If the primary party has been subject  
12 to a check of his or her criminal history record information  
13 pursuant to this section on a prior application, he or she is not  
14 subject to another such check upon a subsequent application. If a  
15 primary party has been subject to a check of his or her criminal  
16 history record information pursuant to another law, the commission  
17 may waive such requirement under this section. A primary party  
18 shall furnish to the Nebraska State Patrol a full set of  
19 fingerprints to enable a criminal background investigation to be  
20 conducted. The primary party shall request that the Nebraska State  
21 Patrol submit the fingerprints to the Federal Bureau of  
22 Investigation for a national criminal history record check. The  
23 primary party shall pay the actual cost, if any, of the  
24 fingerprinting and check of his or her criminal history record  
1 information. The primary party shall authorize release of the  
2 national criminal history record check to the commission. The  
3 criminal history record information check shall be completed within  
4 ninety days after the date the application for a license is  
5 received in the commission's office, and if not, the application  
6 shall be returned to the applicant. The commission shall deny a  
7 grain dealer license to any applicant whose primary party has been

8 convicted of a felony financial crime.

9 Sec. 5. Section 88-528.01, Revised Statutes Supplement,  
10 2004, is amended to read:

11 88-528.01. For each application filed under section  
12 88-528 after January 1, 2004, one of the following primary parties  
13 shall be subject to fingerprinting and a check of his or her  
14 criminal history record information maintained by the Federal  
15 Bureau of Investigation through the Nebraska State Patrol: (1) If  
16 the applicant is not an individual, the chief executive officer,  
17 president, or general manager; or (2) if the applicant is an  
18 individual, the individual. If the primary party has been subject  
19 to a check of his or her criminal history record information  
20 pursuant to this section on a prior application, he or she is not  
21 subject to another such check upon a subsequent application. If a  
22 primary party has been subject to a check of his or her criminal  
23 history record information pursuant to another law, the commission  
24 may waive such requirement under this section. A primary party  
25 shall furnish to the Nebraska State Patrol a full set of  
26 fingerprints to enable a criminal background investigation to be  
27 conducted. The primary party shall request that the Nebraska State  
1 Patrol submit the fingerprints to the Federal Bureau of  
2 Investigation for a national criminal history record check. The  
3 primary party shall pay the actual cost, if any, of the  
4 fingerprinting and check of his or her criminal history record  
5 information. The primary party shall authorize release of the  
6 national criminal history record check to the commission. The  
7 criminal history record information check shall be completed within  
8 ninety days after the date the application for a license is  
9 received in the commission's office, and if not, the application  
10 shall be returned to the applicant. The commission shall deny a  
11 warehouse license to any applicant whose primary party has been  
12 convicted of a felony financial crime."  
13 2. On page 7, line 16, strike "5 and 8" and insert "7  
14 and 10"; in line 19 before "and" insert ", 75-903.02,"; in line 20  
15 after "88-528" insert ", 88-528.01,"; and in line 21 strike "2003"  
16 and insert "2004".  
17 3. Renumber the remaining sections accordingly.

(Signed) Bob Kremer, Chairperson

### Education

**LEGISLATIVE BILL 126.** Placed on General File.

**LEGISLATIVE BILL 124.** Indefinitely postponed.

**LEGISLATIVE BILL 125.** Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

**Health and Human Services**

**LEGISLATIVE BILL 61.** Placed on General File.

**LEGISLATIVE BILL 89.** Placed on General File.

**LEGISLATIVE BILL 175.** Placed on General File.

**LEGISLATIVE BILL 176.** Placed on General File.

**LEGISLATIVE BILL 301.** Placed on General File as amended.

Standing Committee amendment to LB 301:

AM0005

- 1 1. Insert the following new sections:
- 2 "Sec. 44. Section 71-4737, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 71-4737. The Legislature recognizes that it is necessary
- 5 to track newborns and infants identified with a potential hearing
- 6 loss or who have been evaluated and have been found to have a
- 7 hearing loss for a period of time in order to render appropriate
- 8 followup care. The Department of Health and Human Services
- 9 Regulation and Licensure shall, ~~on or before December 1, 2000,~~
- 10 determine and implement the most appropriate system for this state
- 11 which is available to track newborns and infants identified with a
- 12 hearing loss. It is the intent of the Legislature that the
- 13 tracking system provide the department and Legislature with the
- 14 information necessary to effectively plan and establish a
- 15 comprehensive system of developmentally appropriate services for
- 16 newborns and infants who have a potential hearing loss or who have
- 17 been found to have a hearing loss and shall reduce the likelihood
- 18 of associated disabling conditions for such newborns and infants.
- 19 Sec. 45. Section 71-4738, Reissue Revised Statutes of
- 20 Nebraska, is amended to read:
- 21 71-4738. The Department of Health and Human Services
- 22 Regulation and Licensure shall apply for all available federal
- 23 funding to implement the Infant Hearing Act.
- 24 Sec. 46. Section 71-4739, Reissue Revised Statutes of
- 1 Nebraska, is amended to read:
- 2 71-4739. (1) ~~Beginning December 1, 2000, and annually~~
- 3 ~~thereafter, every~~ Every birthing facility shall annually report to
- 4 the Department of Health and Human Services Regulation and
- 5 Licensure the number of:
- 6 (a) Newborns born;
- 7 (b) Newborns and infants recommended for a hearing
- 8 screening test;
- 9 (c) Newborns who received a hearing screening test during
- 10 birth admission;
- 11 (d) Newborns who passed a hearing screening test during
- 12 birth admission if administered;
- 13 (e) Newborns who did not pass a hearing screening test
- 14 during birth admission if administered; and
- 15 (f) Newborns recommended for monitoring, intervention,

16 and followup care.

17 (2) ~~Beginning December 1, 2000, and annually thereafter,~~  
18 ~~every~~ Every confirmatory testing facility shall annually report to  
19 the Department of Health and Human Services Regulation and  
20 Licensure the number of:

21 (a) Newborns and infants who return for a followup  
22 hearing test;

23 (b) Newborns and infants who do not have a hearing loss  
24 based upon the followup hearing test; and

25 (c) Newborns and infants who are shown to have a hearing  
26 loss based upon the followup hearing test.

27 Sec. 47. Section 71-4740, Reissue Revised Statutes of  
1 Nebraska, is amended to read:

2 71-4740. (1) ~~Beginning January 1, 2001, every~~ Every  
3 birthing facility shall educate the parents of newborns born in  
4 such facilities of the importance of receiving a hearing screening  
5 test and any necessary followup care. This educational information  
6 shall explain, in lay terms, the hearing screening test, the  
7 likelihood of the newborn having a hearing loss, followup  
8 procedures, and community resources, including referral for early  
9 intervention services under the Early Intervention Act. The  
10 educational information shall also include a description of the  
11 normal auditory, speech, and language developmental process in  
12 children. Education shall not be considered a substitute for the  
13 hearing screening test.

14 (2) If a newborn is not born in a birthing facility, the  
15 Department of Health and Human Services Regulation and Licensure  
16 shall educate the parents of such newborns of the importance of  
17 receiving a hearing screening test and any necessary followup care.  
18 The department shall also give parents information to assist them  
19 in having the test performed within three months after the date of  
20 the child's birth.

21 Sec. 48. Section 71-4741, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-4741. (1) The Department of Health and Human Services  
24 Regulation and Licensure shall determine which birthing facilities  
25 are administering hearing screening tests to newborns and infants  
26 on a voluntary basis and the number of newborns and infants  
27 screened. The department shall annually report to the Legislature  
1 ~~by January 1, 2002, and annually thereafter,~~ the number of:

2 (a) Birthing facilities administering voluntary hearing  
3 screening tests during birth admission;

4 (b) Newborns screened as compared to the total number of  
5 newborns born in such facilities;

6 (c) Newborns who passed a hearing screening test during  
7 birth admission if administered;

8 (d) Newborns who did not pass a hearing screening test  
9 during birth admission if administered; and

10 (e) Newborns recommended for followup care.

11 (2) The department, in consultation with the State  
12 Department of Education, birthing facilities, and other providers,  
13 shall develop approved screening methods and protocol for statewide  
14 hearing screening tests of substantially all newborns and infants.  
15 ~~by December 1, 2002.~~

16 (3) Subject to available appropriations, the Department  
17 of Health and Human Services Regulation and Licensure shall make  
18 the report described in this section available.

19 Sec. 49. Section 71-4742, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-4742. (1) ~~By December 1, 2003, each~~ Each birthing  
22 facility shall include a hearing screening test as part of its  
23 standard of care for newborns and shall establish a mechanism for  
24 compliance review. ~~By December 1, 2003, a~~ A hearing screening test  
25 shall be conducted on no fewer than ninety-five percent of the  
26 newborns born in this state.

27 (2) If the number of newborns receiving a hearing  
1 screening test does not equal or exceed ninety-five percent of the  
2 total number of newborns born in this state on or before December  
3 1, 2003, or falls below ninety-five percent at any time thereafter,  
4 the Department of Health and Human Services Regulation and  
5 Licensure shall immediately adopt and promulgate rules and  
6 regulations implementing a hearing screening program. The hearing  
7 screening program shall provide for a hearing screening test that  
8 every newborn born in this state shall undergo and shall provide  
9 that the hearing screening test be completed during birth admission  
10 or, if that is not possible, no later than three months after  
11 birth. Notwithstanding this section, it is the goal of this state  
12 to achieve a one-hundred-percent screening rate.

13 Sec. 50. Section 71-4743, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 71-4743. The Department of Health and Human Services  
16 Regulation and Licensure and the State Department of Education  
17 shall establish guidelines for when a referral shall be made for  
18 early intervention services under the Early Intervention Act. The  
19 guidelines shall include a request for an individual evaluation of  
20 a child suspected of being deaf or hard of hearing as defined in  
21 section 79-1118.01.

22 Sec. 51. Section 71-4744, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-4744. The Department of Health and Human Services  
25 Regulation and Licensure shall adopt and promulgate rules and  
26 regulations necessary to implement the Infant Hearing Act."

27 2. Renumber the remaining sections and correct the  
1 internal references and repealer so that the sections added by this  
2 amendment become operative on July 1, 2005.

**LEGISLATIVE BILL 164.** Indefinitely postponed.

(Signed) Jim Jensen, Chairperson

**AMENDMENT - Print in Journal**

Senator Raikes filed the following amendment to LB 126:  
AM0041

- 1 1. On page 7, line 9, strike "1" and insert "10".

**STANDING COMMITTEE REPORTS**  
**Nebraska Retirement Systems**

The Nebraska Retirement Systems Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Denis Blank - Public Employees Retirement Board  
Glenn Elwell - Public Employees Retirement Board  
Mark Shepard - Public Employees Retirement Board

VOTE: Aye: Senators Bourne, Erdman, D. Pederson, Price, Stuhr, and Synowiecki. Nay: None. Absent: None.

(Signed) Elaine Stuhr, Chairperson

**Health and Human Services**

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Richard DeLiberty - Behavioral Health Administrator  
Richard P. Nelson - Department of Health and Human Services Finance and Support  
Richard Raymond - Department of Health and Human Services Regulation and Licensure

VOTE: Aye: Senators Jensen, Byars, Cunningham, Erdman, Johnson, Stuthman, and Howard. Nay: None. Absent: None.

(Signed) Jim Jensen, Chairperson

**Natural Resources**

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Charles J. "Tod" Brodersen - Nebraska Ethanol Board  
James J. Jenkins - Nebraska Ethanol Board

VOTE: Aye: Senators Hudkins, Kremer, Kopplin, Loudon, McDonald,  
Schrock, Stuhr. Nay: None. Absent: Senator Smith.

(Signed) Ed Schrock, Chairperson

## REPORTS

The following reports were received by the Legislature:

**Criminal Justice, Commission on Law Enforcement and**  
Crime Victim's Reparations Program, Seventeenth and Eighteenth Annual  
Report, July 1, 2002-June 30, 2003 and July 1, 2003-June 30, 2004  
**Health and Human Services System**  
New Hire Report  
**Roads, Department of**  
State Highway Commission Quarterly Report  
**Rural Development Commission**  
Annual Report FY 03-04

## REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of January 20,  
2005, in accordance with Section 49-1481, Revised Statutes of Nebraska.  
Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Bare, Brad  
Smith Hayes Financial Services

Berryman, Scott  
Blackwell Sanders Peper Martin LLP

Blackwell Sanders Peper Martin LLP  
Seldin Company

Bromm, Curt  
League of Nebraska Municipalities  
Papio Valley Preservation Association

Brummer, Joni M.  
Nebraska Travel Association

Ferdinand, Betty  
Health Care Association, Nebraska

Gilster, Kyle J.  
Blackwell Sanders Peper Martin LLP

Hallstrom, Robert J.  
Blue Cross & Blue Shield of Nebraska

Kissel/Erickson & Sederstrom Associates, LLC  
Coalition of Rural Water Districts  
Families for Effective Autism Treatment (FEAT)

Pappas, James E.  
Bellevue Public Schools  
NorthWestern Energy  
UNO AAUP Faculty

Ruth Mueller Robak LLC  
CT Corporation  
Service Contract Industry Council

Swertzic, Michelle  
Propane Gas Association, Nebraska

Watson, Robert W.  
Stop the Violence Domestic Abuse Hotline

Welsch, Mark E.  
GASP-Group to Alleviate Smoking Pollution

Wesely, Don  
City of Hastings  
City of Norfolk  
Motorola, Inc.

### **MOTION - Escort Committees**

Senator Cudaback moved that a series of committees be appointed to escort the Governor, Chief Justice of the Supreme Court, and the family of the Governor to the Legislative Chamber.

The motion prevailed.

### **INAUGURAL CEREMONIES**

Chief Justice John Hendry administered the Oath of Office to the Governor.

Governor Dave Heineman delivered the following Inaugural Address:

Mr. Speaker, Members of the Legislature, Special Friends from Fremont,

other Distinguished Guests and Fellow Nebraskans;

Today my remarks will be very brief.

It is only appropriate that I begin by thanking my Mom and Dad, my wife, Sally, and my son, Sam, for their unwavering support throughout my years in public service.

I wouldn't be standing here today if it weren't for your love and encouragement.

I also want to thank this body for allowing me the honor of taking the oath of office in this historic chamber.

Your graciousness is appreciated.

To the citizens of this great state I have this to say:

I stand ready to accept the awesome responsibilities now before me.

I am grateful not only to have had the opportunity to serve as Lieutenant Governor, but to have done so alongside a man of Mike Johanns' caliber.

Today, I am honored to accept a more prominent role in the leadership of this state.

As Nebraska's 39th Governor, I will commit myself to making this state an even greater place to live, work and raise a family.

I intend to reach out from border to border to hear first-hand from our citizens about their thoughts, concerns and ideas for our state.

I look forward to working with you and sharing more about my vision for the future with you next week when I deliver the State of the State Address.

Thank you.

The Governor, Chief Justice, and family of the Governor were escorted from the Chamber.

### **STANDING COMMITTEE REPORTS**

#### **Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 54.** Placed on General File as amended.

Standing Committee amendment to LB 54:

AM0029

- 1 1. Strike original section 30 and insert the following
- 2 new section:
- 3 "Sec. 30. Section 80-410, Reissue Revised Statutes of

4 Nebraska, is amended to read:

5 80-410. (1) The Director of Veterans' Affairs, all  
 6 members of the Veterans' Advisory Commission, all state service  
 7 officers, all assistant state service officers, all county veterans  
 8 service officers, ~~all members of the county veterans service~~  
 9 ~~committees~~ and all personnel, except certain special and clerical  
 10 help, of the state ~~and county~~ veterans service offices, shall have  
 11 served in the armed forces of the United States during the dates  
 12 set forth in section 80-401.01, shall have been ~~honorably~~  
 13 discharged or otherwise separated with a characterization of  
 14 honorable from such service, and shall have been bona fide  
 15 residents of the State of Nebraska continuously for at least five  
 16 years immediately prior to their assuming a position in any of the  
 17 offices mentioned.  
 18 (2) All members of the county veterans service committees  
 19 and all personnel, except certain special and clerical help, of the  
 20 county veterans service offices shall have all of the  
 21 qualifications described in subsection (1) of this section, except  
 22 that such persons may have been discharged or otherwise separated  
 23 with a characterization of general (under honorable conditions)."

**LEGISLATIVE BILL 96.** Placed on General File as amended.

Standing Committee amendment to LB 96:

AM0047

- 1 1. On page 2, line 28, strike "nine hundred thousand",
- 2 show as stricken, and insert "one million four hundred thousand".

(Signed) DiAnna R. Schimek, Chairperson

### Revenue

**LEGISLATIVE BILL 16.** Placed on General File.

**LEGISLATIVE BILL 17.** Placed on General File.

**LEGISLATIVE BILL 15.** Placed on General File as amended.

(Standing Committee amendment, AM0030, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 18.** Placed on General File as amended.

Standing Committee amendment to LB 18:

AM0032

- 1 1. On page 2, line 8, strike "shall" and insert "may";
- 2 strike beginning with "at" in line 9 through "or" in line 10; and
- 3 in line 11 after "delinquency" insert "for one year".

**LEGISLATIVE BILL 263.** Placed on General File as amended.

Standing Committee amendment to LB 263:

AM0033

- 1 1. On page 10, line 7, strike "or 77-1507" and show as

2 stricken.

**LEGISLATIVE BILL 283.** Placed on General File as amended.

Standing Committee amendment to LB 283:

AM0031

- 1 1. Insert the following new section:
- 2 "Sec. 6. Section 77-1510, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 77-1510. Any action of the county board of equalization
- 5 pursuant to section 77-1502 may be appealed to the Tax Equalization
- 6 and Review Commission in accordance with section 77-5013 on or
- 7 before August 24 or on or before September 10 if the county has
- 8 adopted a resolution to extend the deadline for hearing protests
- 9 under section 77-1502."
- 10 2. On page 4, line 12, strike "unless the county" and
- 11 insert "or on or before August 18 in a county that".
- 12 3. On page 5, line 14, before the period insert "or on
- 13 or before September 30 if the county has adopted a resolution to
- 14 extend the deadline for hearing protests under section 77-1502";
- 15 and in line 17 before the period insert "or on or before October 30
- 16 if the county has adopted a resolution to extend the deadline for
- 17 hearing protests under section 77-1502".
- 18 4. On page 8, line 27, before "and" insert "77-1510,".
- 19 5. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 371.** Indefinitely postponed.

(Signed) David Landis, Chairperson

**Nebraska Retirement Systems**

**LEGISLATIVE BILL 329.** Placed on General File.

(Signed) Elaine Stuhr, Chairperson

**NOTICE OF COMMITTEE HEARING**

**General Affairs**

Room 1510

LB 209	Monday, January 31, 2005	1:30 p.m.
LB 210	Monday, January 31, 2005	1:30 p.m.
LB 405	Monday, January 31, 2005	1:30 p.m.
LB 733	Monday, January 31, 2005	1:30 p.m.

(Signed) Ray Janssen, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 29.** Introduced by Schrock, 38; Jensen, 20; Johnson, 37; D. Pederson, 42.

WHEREAS, Harold M. Maurer, M. D., has served the State of Nebraska in the position of Chancellor of the University of Nebraska Medical Center since 1998; and

WHEREAS, Dr. Maurer has been a leader at the University of Nebraska Medical Center through unprecedented growth during the last decade; and

WHEREAS, Dr. Maurer has been recognized as "Midlander of the Year" by the Omaha World Herald.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commends Harold M. Maurer on his service to the state and congratulates him on his recognition as Midlander of the Year.

2. That a copy of this resolution be sent to Dr. Maurer.

Laid over.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Brashear asked unanimous consent to have his name added as cointroducer to LB 47. No objections. So ordered.

Senator Cunningham asked unanimous consent to have his name added as cointroducer to LB 575. No objections. So ordered.

Senator Fischer asked unanimous consent to have her name added as cointroducer to LB 600. No objections. So ordered.

Senators Kruse and Redfield asked unanimous consent to have their names added as cointroducers to LBs 604 and 613. No objections. So ordered.

Senator Fischer asked unanimous consent to have her name added as cointroducer to LB 673. No objections. So ordered.

Senator Flood asked unanimous consent to have his name added as cointroducer to LB 713. No objections. So ordered.

**WITHDRAW - Cointroducer**

Senator Kremer withdrew his name as cointroducer to LB 748.

**VISITORS**

Visitors to the Chamber were Nebraska Dental Hygienists' Association and Dental Hygiene students from Central Community College, Hastings, Iowa Western Community College, Council Bluffs, and University of Nebraska

School of Dentistry, Lincoln; Seref Iba from Turkey; and Jo-Chin Wang and Henry Fan from the Republic of China.

### **ADJOURNMENT**

At 10:35 a.m., on a motion by Senator Cudaback, the Legislature adjourned until 11:00 a.m., Monday, January 24, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

# **THIRTEENTH DAY - JANUARY 24, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **THIRTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, January 24, 2005

#### **PRAYER**

The prayer was offered by Senator Kruse.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 11:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Burling who was excused; and Senators Combs and Erdman who were excused until they arrive.

#### **CORRECTIONS FOR THE JOURNAL**

The Journal for the twelfth day was approved.

#### **REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB 584	Agriculture (rereferred)

Munn, John - Department of Banking and Finance - Banking, Commerce and Insurance

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

#### **NOTICE OF COMMITTEE HEARINGS** **Banking, Commerce and Insurance** Room 1507

LB 450	Monday, January 31, 2005	1:30 p.m.
LB 466	Monday, January 31, 2005	1:30 p.m.

LB 491	Monday, January 31, 2005	1:30 p.m.
LB 533	Monday, January 31, 2005	1:30 p.m.
LB 49	Tuesday, February 1, 2005	1:30 p.m.
LB 170	Tuesday, February 1, 2005	1:30 p.m.
LB 171	Tuesday, February 1, 2005	1:30 p.m.
LB 212	Tuesday, February 1, 2005	1:30 p.m.
LB 570	Tuesday, February 1, 2005	1:30 p.m.

(Signed) Mick Mines, Chairperson

**Business and Labor**  
Room 2102

LB 245	Monday, January 31, 2005	1:30 p.m.
LB 394	Monday, January 31, 2005	1:30 p.m.
LB 463	Monday, January 31, 2005	1:30 p.m.
LB 484	Monday, January 31, 2005	1:30 p.m.
LB 486	Monday, January 31, 2005	1:30 p.m.
LB 487	Monday, January 31, 2005	1:30 p.m.
LB 488	Monday, January 31, 2005	1:30 p.m.
LB 739	Monday, January 31, 2005	1:30 p.m.

(Signed) Douglas Cunningham, Chairperson

**Transportation and Telecommunications**  
Room 1113

LB 742	Monday, January 31, 2005	1:30 p.m.
LB 157	Monday, January 31, 2005	1:30 p.m.
LB 247	Monday, January 31, 2005	1:30 p.m.
LB 516	Monday, January 31, 2005	1:30 p.m.
LB 597	Monday, January 31, 2005	1:30 p.m.
LB 471	Tuesday, February 1, 2005	1:30 p.m.
LB 295	Tuesday, February 1, 2005	1:30 p.m.
LB 127	Tuesday, February 1, 2005	1:30 p.m.
LB 67	Tuesday, February 1, 2005	1:30 p.m.
LB 156	Tuesday, February 1, 2005	1:30 p.m.

(Signed) Tom Baker, Chairperson

**Education**  
Room 1525

LB 502	Monday, January 31, 2005	1:30 p.m.
LB 595	Monday, January 31, 2005	1:30 p.m.
LB 616	Monday, January 31, 2005	1:30 p.m.
LB 634	Monday, January 31, 2005	1:30 p.m.

LB 704	Monday, January 31, 2005	1:30 p.m.
LR 23	Monday, January 31, 2005	1:30 p.m.
LB 114	Tuesday, February 1, 2005	1:30 p.m.
LB 228	Tuesday, February 1, 2005	1:30 p.m.
LB 347	Tuesday, February 1, 2005	1:30 p.m.
LB 350	Tuesday, February 1, 2005	1:30 p.m.
LB 574	Tuesday, February 1, 2005	1:30 p.m.
LB 577	Tuesday, February 1, 2005	1:30 p.m.

(Signed) Ron Raikes, Chairperson

**Agriculture**  
Room 1524

LB 132	Tuesday, February 1, 2005	1:30 p.m.
LB 584	Tuesday, February 1, 2005	1:30 p.m.

(Signed) Bob Kremer, Chairperson

**STANDING COMMITTEE REPORTS**  
**Revenue**

**LEGISLATIVE BILL 28.** Placed on General File.

**LEGISLATIVE BILL 383.** Placed on General File.

**LEGISLATIVE BILL 216.** Placed on General File as amended.

Standing Committee amendment to LB 216:

AM0042

- 1 1. On page 52, line 15, after "refund" insert "or within
- 2 the time for filing an amended Nebraska income tax return that
- 3 would otherwise be applicable notwithstanding the amended federal
- 4 income tax return, whichever is later".

**LEGISLATIVE BILL 334.** Placed on General File as amended.

Standing Committee amendment to LB 334:

AM0056

- 1 1. Strike original section 1.
- 2 2. On page 7, line 8, strike the new matter and insert
- 3 "three hundred fifty"; and in line 13 strike "13-203,".
- 4 3. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 45.** Indefinitely postponed.

**LEGISLATIVE BILL 46.** Indefinitely postponed.

(Signed) David Landis, Chairperson

**RESOLUTIONS****LEGISLATIVE RESOLUTION 30.** Introduced by Erdman, 47.

WHEREAS, the Paxton Lady Tigers volleyball team won the Class D-2 2004 State Championship, beating Elba in the final match of a best-of-five series; and

WHEREAS, the Paxton Lady Tigers volleyball team was undefeated in the 2004 season under Coach Jody Rhodes; and

WHEREAS, the Omaha World-Herald named team members Danielle Peterson first-team and captain of the All-State team, Amber Meyer first-team All-State, and Malarie Perlinger second-team All-State; and

WHEREAS, the Paxton Lady Tigers volleyball team represented the school and the community with excellence and sportsmanship.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Paxton Lady Tigers volleyball team and Coach Jody Rhodes.

2. That a copy of this resolution be sent to the Paxton Lady Tigers volleyball team and Coach Jody Rhodes.

Laid over.

**LEGISLATIVE RESOLUTION 31.** Introduced by Flood, 19 .

WHEREAS, Norfolk, Nebraska, native Johnny Carson ruled over late-night television for thirty years as host of NBC's Tonight Show; and

WHEREAS, Johnny Carson delivered a mix of celebrity banter, droll comedy, and heartland charm to millions of Americans; and

WHEREAS, Johnny Carson has demonstrated genuine benevolence toward the people of Nebraska and specifically the citizens of Norfolk; and

WHEREAS, Johnny Carson died January 23, 2005, and will be remembered by the citizens of the 19th Legislative District as a champion for his hometown and the people of the great State of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the State of Nebraska honors one of its favorite sons by proclaiming January 23 as Johnny Carson day throughout the State of Nebraska and remembering the day of his passing as a celebration of the life of one Nebraskan who never forgot his hometown and who shared his talent and resources for the betterment of Norfolk, Nebraska.

Laid over.

**LEGISLATIVE RESOLUTION 32.** Introduced by Flood, 19.

WHEREAS, Norfolk Catholic Schools have provided quality Catholic education in Norfolk since 1926; and

WHEREAS, Norfolk Catholic Schools strive to meet the highest standards

in education while building tomorrow's leaders; and

WHEREAS, Norfolk Catholic Schools provide an educational environment that stresses the Catholic teachings of morality and community service in its students; and

WHEREAS, Norfolk Catholic Schools celebrate Catholic Schools Week from January 31 to February 4, 2005.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the State of Nebraska honors the students, staff, and faculty that provide Catholic education at Norfolk Catholic Schools during the celebration of Catholic Schools Week during the week of January 31 to February 4, 2005.

Laid over.

### **STANDING COMMITTEE REPORTS**

#### **Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 37.** Placed on General File.

**LEGISLATIVE BILL 11.** Placed on General File as amended.

Standing Committee amendment to LB 11:

AM0053

1 1. On page 2, strike lines 10 through 20 and insert  
2 "(2) A state agency may use an email address from any  
3 person the state agency regulates or does business with, or an  
4 email address from the agent for service of process of that person,  
5 for any communication with such person.  
6 (3) A communication postmarked by an electronic postmark  
7 provided by the United States Postal Service may be used to verify  
8 that a record of a state agency is true and correct.  
9 Notwithstanding any other statute to the contrary, a communication  
10 postmarked by an electronic postmark by the United States Postal  
11 Service may be used by a state agency in lieu of certified mail or  
12 certified mail, return receipt requested, in complying with any  
13 statutory requirement for providing a communication by certified  
14 mail or certified mail, return receipt requested. However, the use  
15 or acceptance of an electronic postmark shall be at the option of  
16 the parties to the communication and shall require consent by the  
17 sender and the receiver of the communication to that method of  
18 communication.  
19 (4) This section shall not be construed to require a  
20 person or state agency to use or permit the use of an electronic  
21 postmark, to authorize the use of an email address for service of  
22 process of legal documents upon a party to a lawsuit, or to  
23 invalidate electronic communications or verification of such  
24 communications which are valid under any other applicable law."; in  
1 line 21 strike "(3)" and insert "(5)"; and in line 27 strike "(4)"  
2 and insert "(6)".

- 3 2. On page 3, line 5, strike "Post Office" and insert  
4 "Postal Service"; and in line 6 before "or" insert "state  
5 postsecondary educational institution,".

**LEGISLATIVE BILL 53.** Placed on General File as amended.  
Standing Committee amendment to LB 53:  
AM0058

- 1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 29-112, Revised Statutes Supplement,  
4 2004, is amended to read:  
5 29-112. Any person sentenced to be punished for any  
6 felony, when the sentence is not reversed or annulled, is  
7 incompetent to be ~~an elector or a~~ juror or to hold any office of  
8 honor, trust, or profit within this state, unless such person  
9 receives from the Board of Pardons of this state a warrant of  
10 discharge, in which case such person shall be restored to such  
11 civil rights and privileges as enumerated or limited by the Board  
12 of Pardons. The warrant of discharge shall not release such person  
13 from the costs of conviction unless otherwise ordered by the Board  
14 of Pardons.  
15 Any person sentenced to be punished for any felony, when  
16 the sentence is not reversed or annulled, is not qualified to vote  
17 until two years after he or she has completed the sentence,  
18 including any parole term. The disqualification is automatically  
19 removed at such time.  
20 Sec. 2. Section 29-113, Revised Statutes Supplement,  
21 2004, is amended to read:  
22 29-113. Any person who has been ~~actually imprisoned in~~  
23 ~~the penitentiary convicted of a felony under the laws of any other~~  
24 ~~state or territory of the United States under sentence for the~~  
1 ~~commission of any crime which, by the laws of this state, is~~  
2 ~~punishable by imprisonment in a Department of Correctional Services~~  
3 ~~adult correctional facility shall be deemed incompetent to be an~~  
4 ~~elector or a~~ juror or to hold any office of honor, trust, or profit  
5 within this state, unless such ~~convict has received a general~~  
6 ~~pardon from the Board of Pardons of the state in which he or she~~  
7 ~~was imprisoned agreeable to the laws thereof~~ person has been  
8 restored to civil rights under the laws of the state in which the  
9 felony was committed.  
10 Any person who has been convicted of a felony under the  
11 laws of any other state is not qualified to vote until two years  
12 after such person has completed his or her sentence, including any  
13 parole term.  
14 Sec. 3. Section 29-2264, Revised Statutes Supplement,  
15 2004, is amended to read:  
16 29-2264. (1) Whenever any person is placed on probation  
17 by a court and satisfactorily completes the conditions of his or  
18 her probation for the entire period or is discharged from probation

19 prior to the termination of the period of probation, the sentencing  
20 court shall issue an order releasing the offender from probation.  
21 Such order in all felony cases shall provide notice that the  
22 person's voting rights are ~~not~~ restored ~~upon~~ two years after  
23 completion of probation. The order shall include information on  
24 restoring ~~such~~ other civil rights through the pardon process,  
25 including application to and hearing by the Board of Pardons.

26 (2) Whenever any person is convicted of a misdemeanor or  
27 felony and is placed on probation by the court or is sentenced to a  
1 fine only, he or she may, after satisfactory fulfillment of the  
2 conditions of probation for the entire period or after discharge  
3 from probation prior to the termination of the period of probation  
4 and after payment of any fine, petition the sentencing court to set  
5 aside the conviction.

6 (3) In determining whether to set aside the conviction,  
7 the court shall consider:

8 (a) The behavior of the offender after sentencing;

9 (b) The likelihood that the offender will not engage in  
10 further criminal activity; and

11 (c) Any other information the court considers relevant.

12 (4) The court may grant the offender's petition and issue  
13 an order setting aside the conviction when in the opinion of the  
14 court the order will be in the best interest of the offender and  
15 consistent with the public welfare. The order shall:

16 (a) Nullify the conviction; and

17 (b) Remove all civil disabilities and disqualifications  
18 imposed as a result of the conviction.

19 (5) The setting aside of a conviction in accordance with  
20 the Nebraska Probation Administration Act shall not:

21 (a) Require the reinstatement of any office, employment,  
22 or position which was previously held and lost or forfeited as a  
23 result of the conviction;

24 (b) Preclude proof of a plea of guilty whenever such plea  
25 is relevant to the determination of an issue involving the rights  
26 or liabilities of someone other than the offender;

27 (c) Preclude proof of the conviction as evidence of the  
1 commission of the misdemeanor or felony whenever the fact of its  
2 commission is relevant for the purpose of impeaching the offender  
3 as a witness, except that the order setting aside the conviction  
4 may be introduced in evidence;

5 (d) Preclude use of the conviction for the purpose of  
6 determining sentence on any subsequent conviction of a criminal  
7 offense;

8 (e) Preclude the proof of the conviction as evidence of  
9 the commission of the misdemeanor or felony in the event an  
10 offender is charged with a subsequent offense and the penalty  
11 provided by law is increased if the prior conviction is proved;

12 (f) Preclude the proof of the conviction to determine  
13 whether an offender is eligible to have a subsequent conviction set

14 aside in accordance with the Nebraska Probation Administration Act;  
15 or

16 (g) Preclude use of the conviction as evidence of  
17 commission of the misdemeanor or felony for purposes of determining  
18 whether an application filed or a license issued under sections  
19 71-1901 to 71-1905 or the Child Care Licensing Act or a certificate  
20 issued under sections 79-806 to 79-815 should be denied, suspended,  
21 or revoked.

22 (6) Except as otherwise provided for the notice in  
23 subsection (1) of this section, this section shall be retroactive  
24 in application and shall apply to all persons, otherwise eligible  
25 in accordance with the provisions of this section, whether  
26 convicted prior to, on, or subsequent to June 11, 1993.

27 Sec. 4. Section 32-312, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 32-312. The office personnel of the election  
3 commissioner or county clerk or the deputy registrar shall examine  
4 all persons who may personally apply to register to vote as to his  
5 or her qualifications, and in the presence of the applicant, the  
6 information listed in this section shall be entered in the  
7 register.

8 CITIZENSHIP--"Are you a citizen of the United States of  
9 America?" and boxes to check to indicate whether the applicant is  
10 or is not a citizen of the United States.

11 AGE--"Are you at least eighteen years of age or will you  
12 be eighteen years of age on or before the first Tuesday following  
13 the first Monday of November of this year?" and boxes to check to  
14 indicate whether or not the applicant will be eighteen years of age  
15 or older on election day.

16 WARNING--"If you checked 'no' in response to either of  
17 these questions, do not complete this form.".

18 NAME--the name of the applicant giving the first and last  
19 name in full, the middle name in full or the middle initial, and  
20 the maiden name of the applicant, if applicable.

21 RESIDENCE--the name and number of the street, avenue, or  
22 other location of the dwelling where the applicant resides if there  
23 is a number. If the registrant resides in a hotel, apartment,  
24 tenement house, or institution, such additional information shall  
25 be included as will give the exact location of such registrant's  
26 place of residence. If the registrant lives in an incorporated or  
27 unincorporated area not identified by the use of roads, road names,  
1 or house numbers, the registrant shall state the section, township,  
2 and range of his or her residence and the corporate name of the  
3 school district as described in section 79-405 in which he or she  
4 is located.

5 POSTAL ADDRESS--the address at which the applicant  
6 receives mail if different from the residence address.

7 ADDRESS OF LAST REGISTRATION--the name and number of the  
8 street, avenue, or other location of the dwelling from which the

9 applicant last registered.

10 TELEPHONE NUMBERS (optional)--the telephone number of the  
11 applicant at work and at home. At the request of the applicant, a  
12 designation shall be made that the telephone number is an unlisted  
13 number, and such designation shall preclude the listing of the  
14 applicant's telephone number on any list of voter registrations.

15 DRIVER'S LICENSE NUMBER OR LAST FOUR DIGITS OF SOCIAL  
16 SECURITY NUMBER--if the applicant has a Nebraska driver's license,  
17 the license number, if the applicant does not have a Nebraska  
18 driver's license, the last four digits of the applicant's social  
19 security number, and if the applicant does not have a Nebraska  
20 driver's license or a social security number, a unique identifying  
21 number assigned under this section.

22 DATE OF APPLICATION FOR REGISTRATION--the month, day, and  
23 year when applicant presented himself or herself for registration.

24 PLACE OF BIRTH (optional)--show the state, country,  
25 kingdom, empire, or dominion where the applicant was born.

26 DATE OF BIRTH--show the date of the applicant's birth.

27 The applicant shall be at least eighteen years of age or attain  
1 eighteen years of age on or before the first Tuesday after the  
2 first Monday in November to have the right to register and vote in  
3 any election in the present calendar year.

4 REGISTRATION TAKEN BY--show the signature of the deputy  
5 registrar taking the application, if applicable.

6 PARTY AFFILIATION--show the party affiliation of the  
7 applicant as Democrat, Republican, Nonpartisan, or Other ..... .

8 (Note: If you wish to vote in both partisan and nonpartisan  
9 primary elections for state and local offices, you must indicate a  
10 political party affiliation on the registration form. If you  
11 register without a political party affiliation (independent), you  
12 will receive only the nonpartisan ballots for state and local  
13 offices at primary elections. If you register without a political  
14 party affiliation, you may vote in partisan primary elections for  
15 congressional offices.)

16 Immediately following the spaces for inserting  
17 information as provided in this section, the following statement  
18 shall be printed:

19 To the best of my knowledge and belief, I declare under  
20 penalty of election falsification that:

21 (1) I live in the State of Nebraska at the address  
22 provided above;

23 (2) I have not been convicted of a felony or, if  
24 convicted, ~~my civil rights have been restored~~ it has been at least  
25 two years since I completed my sentence for the felony, including  
26 any parole term; and

27 (3) I have not been officially found to be non compos  
1 mentis (mentally incompetent).

2 Any registrant who signs this form knowing that any of  
3 the information in the form is false shall be guilty of a Class IV

4 felony under section 32-1502 of the statutes of Nebraska. The  
5 penalty for a Class IV felony is up to five years imprisonment, a  
6 fine of up to ten thousand dollars, or both.

7 APPLICANT'S SIGNATURE--require the applicant to affix his  
8 or her signature to the form.

9 If an applicant for voter registration does not have a  
10 Nebraska driver's license or a social security number, the  
11 Secretary of State shall assign the applicant a number which will  
12 serve to identify the applicant for voter registration purposes.  
13 When the computerized voter registration list is in effect and the  
14 list assigns unique identifying numbers to registrants, the number  
15 assigned under this section shall be the unique identifying number  
16 assigned under the list.

17 Sec. 5. Section 32-313, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 32-313. (1) No person ~~shall be~~ is qualified to vote or  
20 to register to vote who is non compos mentis or who has been  
21 convicted of treason ~~or a felony~~ under the laws of the state or of  
22 the United States unless restored to civil rights. No person who  
23 has been convicted of a felony under the laws of this state or any  
24 other state is qualified to vote or to register to vote until two  
25 years after the sentence is completed, including any parole term.  
26 The disqualification is automatically removed at such time.

27 (2) The clerk of any court in which a person is convicted  
1 of a felony shall prepare an abstract each month of each final  
2 judgment served by the clerk convicting an elector of a felony.  
3 The clerk shall file the abstract with the election commissioner or  
4 county clerk of the elector's county of residence not later than  
5 the tenth day of the month following the month in which the  
6 abstract is prepared. The clerk of the court shall notify the  
7 election commissioner or county clerk in writing if any such  
8 conviction is overturned.

9 (3) Upon receiving notification from the United States  
10 Attorney of a felony conviction of a Nebraska resident in federal  
11 court or of the overturning of any such conviction, the Secretary  
12 of State shall forward the notice to the election commissioner or  
13 county clerk of the county of such person's residence. The  
14 election commissioner or county clerk shall remove the name of such  
15 person from the voter registration register upon receipt of notice  
16 of conviction.

17 Sec. 6. Section 32-1530, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 32-1530. Any person who votes (1) who is not a resident  
20 of this state or registered in the county or who at the time of  
21 election is not of the constitutionally prescribed age of a  
22 registered voter, (2) who is not a citizen of the United States, or  
23 (3) ~~who, after~~ being disqualified by law by reason of his or her  
24 conviction of a felony; ~~has not been pardoned and restored to all~~  
25 the rights of a citizen and prior to the end of the two-year period

26 after completing the sentence, including any parole term, shall be  
27 guilty of a Class IV felony.

1 Sec. 7. Section 83-1,118, Revised Statutes Supplement,  
2 2004, is amended to read:

3 83-1,118. (1) If, in the opinion of the board, a parolee  
4 does not require guidance or supervision, the board may dispense  
5 with and terminate such supervision.

6 (2) The board may discharge a parolee from parole at any  
7 time if such discharge is compatible with the protection of the  
8 public and is in the best interest of the parolee.

9 (3) The board shall discharge a parolee from parole when  
10 the time served in the custody of the department and the time  
11 served on parole equal the maximum term less good time.

12 (4) The department shall discharge a committed offender  
13 from the custody of the department when the time served in the  
14 facility equals the maximum term less good time.

15 (5) Upon completion of the lawful requirements of the  
16 sentence, the department shall provide the parolee or committed  
17 offender with a written notice regarding his or her civil rights.  
18 The notice shall inform the parolee or committed offender that  
19 voting rights are ~~not~~ restored ~~upon~~ two years after completion of  
20 the sentence. The notice shall also include information on  
21 restoring ~~such~~ other civil rights through the pardon process,  
22 including application to and hearing by the Board of Pardons.

23 (6) The Board of Parole may discharge a parolee from  
24 parole when such parolee is under the supervision of another  
25 state's correctional institution and such offender has reached the  
26 expiration date of his or her Nebraska parole term.

27 Sec. 8. Original sections 32-312, 32-313, and 32-1530,  
1 Reissue Revised Statutes of Nebraska, and sections 29-112, 29-113,  
2 29-2264, and 83-1,118, Revised Statutes Supplement, 2004, are  
3 repealed."

**LEGISLATIVE BILL 72.** Placed on General File as amended.

Standing Committee amendment to LB 72:

AM0059

1 1. On page 2, line 12, after "government" insert ", an  
2 employee of a political subdivision, or an individual appointed as  
3 a deputy state sheriff pursuant to section 84-106".

4 2. On page 3, line 1, after "public" insert "or by law  
5 enforcement officials".

6 3. On page 5, lines 22 and 23, after "age" insert "to  
7 train an applicant".

8 4. On page 8, line 8, strike "one member is" insert "two  
9 members are"; and in line 9 strike the second occurrence of "one"  
10 and insert "two" and strike the last occurrence of "one" and insert  
11 "three".

**LEGISLATIVE BILL 98.** Placed on General File as amended.

(Standing Committee amendment, AM0057, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 36.** Indefinitely postponed.

(Signed) DiAnna R. Schimek, Chairperson

### **Urban Affairs**

**LEGISLATIVE BILL 7.** Placed on General File as amended.

Standing Committee amendment to LB 7:

AM0037

- 1 1. On page 2, strike lines 11 and 12 and insert
- 2 "pedestrians over the age of eighteen to enter one or more roadways
- 3 at specified times and locations and approach vehicles when stopped
- 4 by traffic control devices or traffic control signals for the
- 5 purpose of soliciting contributions which are to be".

(Signed) Mike Friend, Chairperson

### **Health and Human Services**

**LEGISLATIVE BILL 205.** Placed on General File.

**LEGISLATIVE BILL 244.** Placed on General File.

**LEGISLATIVE BILL 246.** Placed on General File.

**LEGISLATIVE BILL 243.** Placed on General File as amended.

Standing Committee amendment to LB 243:

AM0055

- 1 1. Insert the following new section:
- 2 "Sec. 6. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

(Signed) Jim Jensen, Chairperson

### **SPEAKER BRASHEAR PRESIDING**

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LR 6, 7, and 10 were adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 6, 7, and 10.

### **SENATOR CUDABACK PRESIDING**

**NOTICE OF COMMITTEE HEARINGS**  
**Health and Human Services**  
Room 1510

LB 264	Wednesday, February 2, 2005	1:30 p.m.
LB 265	Wednesday, February 2, 2005	1:30 p.m.
LB 266	Wednesday, February 2, 2005	1:30 p.m.
LB 416	Wednesday, February 2, 2005	1:30 p.m.
LB 307	Wednesday, February 2, 2005	1:30 p.m.
LB 719	Wednesday, February 2, 2005	1:30 p.m.
LB 6	Thursday, February 3, 2005	1:30 p.m.
LB 305	Thursday, February 3, 2005	1:30 p.m.
LB 480	Thursday, February 3, 2005	1:30 p.m.
LB 604	Thursday, February 3, 2005	1:30 p.m.
LB 613	Thursday, February 3, 2005	1:30 p.m.
LB 730	Thursday, February 3, 2005	1:30 p.m.
LB 319	Friday, February 4, 2005	1:30 p.m.
LB 331	Friday, February 4, 2005	1:30 p.m.
LB 453	Friday, February 4, 2005	1:30 p.m.
LB 547	Friday, February 4, 2005	1:30 p.m.

(Signed) Jim Jensen, Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Erdman asked unanimous consent to have his name added as cointroducer to LB 96. No objections. So ordered.

Senator Thompson asked unanimous consent to have her name added as cointroducer to LB 126. No objections. So ordered.

**ADJOURNMENT**

At 11:18 a.m., on a motion by Senator Price, the Legislature adjourned until 10:00 a.m., Tuesday, January 25, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



# **FOURTEENTH DAY - JANUARY 25, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **FOURTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, January 25, 2005

#### **PRAYER**

The prayer was offered by Senator Price.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Burling, Jensen, and Dw. Pedersen who were excused; and Senator Beutler who was excused until he arrives.

#### **CORRECTIONS FOR THE JOURNAL**

Page 241, strike lines 33 through 37 of reports.

Page 242, strike lines 2 and 6 through 16 of reports.

The Journal for the eighth day was approved as corrected.

The Journal for the thirteenth day was approved.

#### **NOTICE OF COMMITTEE HEARINGS**

##### **Health and Human Services**

Room 1510

LB 272	Wednesday, February 9, 2005	1:30 p.m.
LB 549	Wednesday, February 9, 2005	1:30 p.m.
LB 623	Wednesday, February 9, 2005	1:30 p.m.
LB 625	Wednesday, February 9, 2005	1:30 p.m.
LB 709	Wednesday, February 9, 2005	1:30 p.m.
LB 548	Wednesday, February 9, 2005	1:30 p.m.
LB 550	Wednesday, February 9, 2005	1:30 p.m.
LR 9	Wednesday, February 9, 2005	1:30 p.m.
LB 101	Thursday, February 10, 2005	1:30 p.m.
LB 306	Thursday, February 10, 2005	1:30 p.m.
LB 445	Thursday, February 10, 2005	1:30 p.m.

LB 522	Thursday, February 10, 2005	1:30 p.m.
LB 569	Thursday, February 10, 2005	1:30 p.m.
LB 603	Thursday, February 10, 2005	1:30 p.m.
LB 332	Friday, February 11, 2005	1:30 p.m.
LB 534	Friday, February 11, 2005	1:30 p.m.
LB 551	Friday, February 11, 2005	1:30 p.m.
LB 606	Friday, February 11, 2005	1:30 p.m.
LB 618	Friday, February 11, 2005	1:30 p.m.
LB 728	Friday, February 11, 2005	1:30 p.m.
LB 318	Wednesday, February 16, 2005	1:30 p.m.
LB 381	Wednesday, February 16, 2005	1:30 p.m.
LB 382	Wednesday, February 16, 2005	1:30 p.m.
LB 712	Wednesday, February 16, 2005	1:30 p.m.
LB 725	Wednesday, February 16, 2005	1:30 p.m.
LB 370	Thursday, February 17, 2005	2:00 p.m.
LB 705	Thursday, February 17, 2005	2:00 p.m.
LB 586	Thursday, February 17, 2005	2:00 p.m.
LB 158	Wednesday, February 23, 2005	1:30 p.m.
LB 182	Wednesday, February 23, 2005	1:30 p.m.
LB 271	Wednesday, February 23, 2005	1:30 p.m.
LB 664	Wednesday, February 23, 2005	1:30 p.m.
LB 666	Wednesday, February 23, 2005	1:30 p.m.
LB 744	Wednesday, February 23, 2005	1:30 p.m.
LB 331	Friday, February 4, 2005 (cancel)	1:30 p.m.

(Signed) Jim Jensen, Chairperson

**Revenue**  
Room 1524

LB 612	Wednesday, February 2, 2005	1:30 p.m.
LB 90	Wednesday, February 2, 2005	1:30 p.m.
LB 325	Wednesday, February 2, 2005	1:30 p.m.
LB 526	Wednesday, February 2, 2005	1:30 p.m.
LB 38	Thursday, February 3, 2005	1:30 p.m.
LB 113	Thursday, February 3, 2005	1:30 p.m.
LB 353	Thursday, February 3, 2005	1:30 p.m.
LB 109	Thursday, February 3, 2005	1:30 p.m.
LB 513	Thursday, February 3, 2005	1:30 p.m.
LB 635	Thursday, February 3, 2005	1:30 p.m.
LB 687	Friday, February 4, 2005	1:30 p.m.
LB 386	Friday, February 4, 2005	1:30 p.m.

LB 356	Friday, February 4, 2005	1:30 p.m.
LB 40	Friday, February 4, 2005	1:30 p.m.
LB 598	Friday, February 4, 2005	1:30 p.m.

(Signed) David Landis, Chairperson

**Urban Affairs**  
Room 1510

LB 268	Tuesday, February 1, 2005	1:30 p.m.
LB 163	Tuesday, February 1, 2005	1:30 p.m.
LB 372	Tuesday, February 1, 2005	1:30 p.m.
LB 452	Tuesday, February 1, 2005	1:30 p.m.
LB 406	Tuesday, February 1, 2005	1:30 p.m.
LB 662	Tuesday, February 1, 2005	1:30 p.m.

(Signed) Mike Friend, Chairperson

**AMENDMENT - Print in Journal**

Senator Cornett filed the following amendment to LB 430:  
AM0011

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 53-124, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 53-124. At the time application is made to the
- 6 commission for a license of any type, the applicant shall pay the
- 7 fee provided in this section and, if the applicant is an
- 8 individual, provide the applicant's social security number. The
- 9 fees for annual licenses finally issued by the commission shall be
- 10 as follows:
- 11 (1) For a license to manufacture alcohol and
- 12 spirits ..... \$1,000.00;
- 13 (2) For a license to manufacture beer and wine or to
- 14 operate a farm winery or craft brewery:
- 15 (a) Manufacture of beer, excluding beer produced by a
- 16 craft brewery:
- 17 (i) 1 to 100 barrel daily capacity, or any
- 18 part thereof ..... \$100.00
- 19 (ii) 100 to 150 barrel daily capacity ..... 200.00
- 20 (iii) 150 to 200 barrel daily capacity ..... 350.00
- 21 (iv) 200 to 300 barrel daily capacity ..... 500.00
- 22 (v) 300 to 400 barrel daily capacity ..... 650.00
- 23 (vi) 400 to 500 barrel daily capacity ..... 700.00
- 24 (vii) 500 barrel daily capacity, or more .... 800.00;
- 1 (b) Operation of a craft brewery ..... \$250.00;
- 2 (c) Manufacture of wines ..... \$250.00;
- 3 (d) Operation of a farm winery ..... \$250.00.

4 For purposes of subdivision (2)(a) of this section, daily capacity  
5 shall mean the average daily barrel production for the previous  
6 twelve months of manufacturing operation. If no such basis for  
7 comparison exists, the manufacturing licensee shall pay in advance  
8 for the first year's operation a fee of five hundred dollars;

9 (3) Alcoholic liquor wholesale license, for the first and  
10 each additional wholesale place of business operated in this state  
11 by the same licensee and wholesaling alcoholic liquor, except beer  
12 and wines produced from farm wineries ..... \$750.00;

13 (4) Beer wholesale license, for the first and each  
14 additional wholesale place of business operated in this state by  
15 the same licensee and wholesaling beer only ..... \$500.00;

16 (5) For a retail license:

17 (a) Class A: Beer only except for craft breweries, for  
18 consumption on the premises, the sum of one hundred dollars;

19 (b) Class B: Beer only except for craft breweries, for  
20 consumption off the premises, sales in the original packages only,  
21 the sum of one hundred dollars;

22 (c) Class C: Alcoholic liquor, for consumption on the  
23 premises and off the premises, sales in original packages only, the  
24 sum of three hundred dollars, except for farm winery or craft  
25 brewery sales outlets. If a Class C license is held by a nonprofit  
26 corporation, it shall be restricted to consumption on the premises  
27 only. A Class C license may have a sampling designation

1 restricting consumption on the premises to sampling, but such  
2 designation shall not affect sales for consumption off the premises  
3 under such license;

4 (d) Class D: Alcoholic liquor, including beer, for  
5 consumption off the premises, sales in the original packages only,  
6 except as provided in subsection (2) of section 53-123.04, the sum  
7 of two hundred dollars, except for farm winery or craft brewery  
8 sales outlets; ~~and~~

9 (e) Class I: Alcoholic liquor, for consumption on the  
10 premises, the sum of two hundred fifty dollars, except for farm  
11 winery or craft brewery sales outlets; ~~and~~

12 (f) Class CC: Alcoholic liquor inside the corporate  
13 limits of cities and villages, for consumption on the premises and  
14 off the premises, sales in original packages only, the sum of two  
15 thousand five hundred dollars, except for farm winery or craft  
16 brewery sales outlets. Class CC licenses may be issued by the  
17 commission only after an affirmative vote to authorize the issuance  
18 of such licenses by the local governing body of any city or village  
19 with respect to that area inside the corporate limits of such city  
20 or village, or the county board with respect to that area outside  
21 the corporate limits of any city or village.

22 All applicable license fees shall be paid by the  
23 applicant or licensee directly to the city or village treasurer in  
24 the case of premises located inside the corporate limits of a city  
25 or village and directly to the county treasurer in the case of

26 premises located outside the corporate limits of a city or village;  
 27 (6) For a railroad license ..... \$100.00  
 1 and \$1.00 for each duplicate;  
 2 (7) For a boat license ..... \$50.00;  
 3 (8) For a nonbeverage user's license:  
 4 Class 1 ..... \$5.00  
 5 Class 2 ..... 25.00  
 6 Class 3 ..... 50.00  
 7 Class 4 ..... 100.00  
 8 Class 5 ..... 250.00;  
 9 (9) For an airline license ..... \$100.00  
 10 and \$1.00 for each duplicate;  
 11 (10) For a shipping license, except a shipping license  
 12 issued pursuant to subsection (4) of section 53-123.15 ... \$200.00;  
 13 and  
 14 (11) For a shipping license issued pursuant to subsection  
 15 (4) of section 53-123.15 ..... \$500.00.  
 16 The license year, unless otherwise provided in the  
 17 Nebraska Liquor Control Act, shall commence on May 1 of each year  
 18 and shall end on the following April 30, except that the license  
 19 year for a Class C license shall commence on November 1 of each  
 20 year and shall end on the following October 31. During the license  
 21 year, no license shall be issued for a sum less than the amount of  
 22 the annual license fee as fixed in this section, regardless of the  
 23 time when the application for such license has been made, except  
 24 that (a) when there is a purchase of an existing licensed business  
 25 and a new license of the same class is issued or (b) upon the  
 26 issuance of a new license for a location which has not been  
 27 previously licensed, the license fee and occupation taxes shall be  
 1 prorated on a quarterly basis as of the date of issuance.  
 2 Sec. 2. Section 53-179, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 53-179. (1) No alcoholic liquor, including beer, shall  
 5 be sold at retail or dispensed on any day between the hours of 4 3  
 6 a.m. and 6 a.m., except that no holder of a Class CC license issued  
 7 pursuant to subdivision (5) of section 53-124 shall sell at retail  
 8 or dispense alcoholic liquor on any day between the hours of 3 a.m.  
 9 and 6 a.m.  
 10 The local governing body of any city or village with  
 11 respect to area inside the corporate limits of such city or  
 12 village, or the county board with respect to area outside the  
 13 corporate limits of any city or village, may by ordinance or  
 14 resolution require closing prior to 1 a.m. on any day except for  
 15 holders of Class CC licenses.  
 16 (2) Except as provided for and allowed by ordinance of a  
 17 local governing body applicable to area inside the corporate limits  
 18 of a city or village or by resolution of a county board applicable  
 19 to area inside such county and outside the corporate limits of any  
 20 city or village, no alcoholic liquor, including beer, shall be sold

21 at retail or dispensed between the hours of 6 a.m. Sunday and 1  
 22 a.m. Monday. No ordinance or resolution allowed by this subsection  
 23 shall permit alcoholic liquor, other than beer and wine, to be sold  
 24 at retail or dispensed between the hours of 6 a.m. Sunday and 12  
 25 noon Sunday. This subsection shall not apply after 12 noon on  
 26 Sunday to a licensee which is a nonprofit corporation and the  
 27 holder of a Class C license or a Class I license.

1 (3) It shall be unlawful on property licensed to sell  
 2 alcoholic liquor at retail, other than property licensed under a  
 3 Class CC license, to allow alcoholic liquor in open containers to  
 4 remain or be in possession or control of any person for purposes of  
 5 consumption between the hours of 1:15 a.m. and 6 a.m. on any day.  
 6 For holders of Class CC licenses, it shall be unlawful on property  
 7 licensed to sell alcoholic liquor at retail to allow alcoholic  
 8 liquor in open containers to remain or be in possession or control  
 9 of any person between the hours of 3:15 a.m. and 6 a.m., on any  
 10 day. When Except as provided for holders of Class CC licenses,  
 11 when any city or village provides by ordinance or any county  
 12 provides by resolution for an earlier closing hour, the provisions  
 13 of this subsection shall become effective fifteen minutes after  
 14 such closing hour instead of 1:15 a.m.

15 (4) Nothing in this section shall prohibit licensed  
 16 premises from being open for other business on days and hours  
 17 during which the sale or dispensing of alcoholic liquor is  
 18 prohibited by this section.

19 Sec. 3. Original sections 53-124 and 53-179, Reissue  
 20 Revised Statutes of Nebraska, are repealed.".

## VISITOR

The Speaker introduced newly appointed Lt. Governor Rick Sheehy.

## MOTIONS - Approve Appointments

Senator Stuhr moved the adoption of the Nebraska Retirement Systems  
 Committee report for the confirmation of the following appointment(s)  
 found on page 327:

Public Employees Retirement Board

Denis Blank

Glenn Elwell

Mark Shepard

Voting in the affirmative, 36:

Aguilar	Cunningham	Janssen	Mines	Stuhr
Baker	Erdman	Johnson	Pahls	Synowiecki
Brown	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Connealy	Friend	Landis	Redfield	
Cornett	Howard	Langemeier	Schrock	
Cudaback	Hudkins	McDonald	Smith	

Voting in the negative, 0.

Present and not voting, 9:

Bourne	Combs	Heidemann	Pederson, D.	Stuthman
Brashear	Engel	Louden	Schimek	

Excused and not voting, 4:

Beutler	Burling	Jensen	Pedersen, Dw.
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The appointments were confirmed with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

Senator Byars moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 327:

Behavioral Health Administrator

Richard DeLiberty

Department of Health and Human Services Finance and Support

Richard P. Nelson

Department of Health and Human Services Regulation and Licensure

Richard Raymond

Voting in the affirmative, 32:

Aguilar	Engel	Kopplin	Mines	Stuhr
Baker	Erdman	Kremer	Preister	Synowiecki
Byars	Fischer	Kruse	Price	Thompson
Combs	Flood	Landis	Raikes	Wehrbein
Cornett	Howard	Langemeier	Redfield	
Cudaback	Hudkins	Louden	Schrock	
Cunningham	Johnson	McDonald	Smith	

Voting in the negative, 0.

Present and not voting, 14:

Beutler	Brown	Foley	Janssen	Schimek
Bourne	Chambers	Friend	Pahls	Stuthman
Brashear	Connealy	Heidemann	Pederson, D.	

Excused and not voting, 3:

Burling	Jensen	Pedersen, Dw.
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The appointments were confirmed with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 327:

Nebraska Ethanol Board  
 Charles J. "Tod" Brodersen  
 James J. Jenkins

Voting in the affirmative, 32:

Aguilar	Engel	Hudkins	Mines	Stuhr
Brown	Erdman	Janssen	Pahls	Synowiecki
Byars	Fischer	Kopplin	Preister	Thompson
Combs	Foley	Kremer	Raikes	Wehrbein
Connealy	Friend	Langemeier	Schimek	
Cornett	Heidemann	Louden	Schrock	
Cudaback	Howard	McDonald	Smith	

Voting in the negative, 0.

Present and not voting, 14:

Baker	Brashear	Flood	Landis	Redfield
Beutler	Chambers	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Kruse	Price	

Excused and not voting, 3:

Burling	Jensen	Pedersen, Dw.
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The appointments were confirmed with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

**NOTICE OF COMMITTEE HEARING**  
**Transportation and Telecommunications**  
 Room 1113

LB 341	Monday, February 7, 2005	1:30 p.m.
LB 458	Monday, February 7, 2005	1:30 p.m.

LB 344

Monday, February 7, 2005

1:30 p.m.

(Signed) Tom Baker, Chairperson

**STANDING COMMITTEE REPORTS**  
**Natural Resources**

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Ken Kunze - Nebraska Power Review Board

VOTE: Aye: Senators Hudkins, Kopplin, Kremer, Loudon, McDonald, Schrock, Stuhr. Nay: None. Absent: Senator Smith.

(Signed) Ed Schrock, Chairperson

**Nebraska Retirement Systems**

The Nebraska Retirement Systems Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

John Maddux - Nebraska Investment Council

VOTE: Aye: Senators Bourne, Erdman, D. Pederson, Price, Stuhr, Synowiecki. Nay: None. Absent: None.

(Signed) Elaine Stuhr, Chairperson

**Transportation and Telecommunications**

**LEGISLATIVE BILL 76.** Placed on General File.

(Signed) Tom Baker, Chairperson

**Natural Resources**

**LEGISLATIVE BILL 94.** Placed on General File.

**LEGISLATIVE BILL 298.** Placed on General File.

**LEGISLATIVE BILL 335.** Placed on General File.

**LEGISLATIVE RESOLUTION 8CA.** Placed on General File.

**LEGISLATIVE BILL 121.** Placed on General File as amended.

Standing Committee amendment to LB 121:

AM0046

1 1. On page 2, line 13, strike "not less than"; in line

2 14 strike "one dollar and fifty cents and not more than"; and after  
 3 line 16, insert the following:  
 4 "(3) The commission shall establish an exact replacement  
 5 permit for a fee of five dollars for a big game permit for a member  
 6 of the military that has applied for and received a big game permit  
 7 but was deployed during the season of the hunt. Alternatively, the  
 8 member of the military may request a refund of the amount paid for  
 9 a big game permit and the commission shall pay such amount."; and  
 10 in line 17 strike "(3)" and insert "(4)".

(Signed) Ed Schrock, Chairperson

## GENERAL FILE

**LEGISLATIVE BILL 1.** Title read. Considered.

Advanced to E & R for review with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 2.** Title read. Considered.

Advanced to E & R for review with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 3.** Title read. Considered.

Advanced to E & R for review with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 80.** Title read. Considered.

Advanced to E & R for review with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 83.** Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 20.** Title read. Considered.

Senator Schrock offered the following amendment:  
 AM0028

- 1 1. Insert the following new sections:
- 2 "Section 1. Section 37-524.01, Reissue Revised Statutes
- 3 of Nebraska, is amended to read:
- 4 37-524.01. (1) It shall be illegal to knowingly engage
- 5 in, sponsor, instigate, assist, or profit from the release,
- 6 killing, wounding, or attempted killing or wounding of animals of

- 7 the Families Tayassuidae and Suidae for the purpose of sport,  
 8 pleasure, amusement, or production of a trophy. The commission may  
 9 destroy any feral swine and may authorize any agents to destroy and  
 10 dispose of any feral swine.  
 11 (2) For purposes of this section, feral swine means swine  
 12 whose reversion from the domesticated state to a stable condition  
 13 more or less resembling the wild is apparent or an otherwise freely  
 14 roaming swine having no visible tags, marking, or characteristics  
 15 indicating that it is from a domestic herd, and reasonable inquiry  
 16 within the area does not identify an owner.  
 17 (3) Any person violating subsection (1) of this section  
 18 is guilty of a Class II misdemeanor.  
 19 Sec. 9. Since an emergency exists, this act takes effect  
 20 when passed and approved according to law."  
 21 2. On page 2, lines 3 and 9; and page 4, line 10, strike  
 22 "4" and insert "5".  
 23 3. Renumber the remaining sections accordingly.

Senator Louden offered the following amendment to the Schrock pending amendment:

FA1

Amend AM28

- 1 1. On page 1, lines 8 through 10, strike the sentence beginning with "The"  
 2 and insert "The commission or any person may destroy and dispose of  
 3 any feral swine. The commission also may authorize any agents to  
 4 destroy and dispose of any feral swine.".

Senator Louden moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Senator Louden requested a roll call vote on his amendment.

Voting in the affirmative, 1:

Louden

Voting in the negative, 38:

Baker	Cornett	Heidemann	Mines	Schrock
Beutler	Cunningham	Howard	Pahls	Smith
Bourne	Engel	Janssen	Pederson, D.	Stuhr
Brashear	Erdman	Kopplin	Preister	Synowiecki
Brown	Fischer	Kremer	Price	Thompson
Byars	Flood	Kruse	Raikes	Wehrbein
Chambers	Foley	Landis	Redfield	
Connealy	Friend	Langemeier	Schimek	

Present and not voting, 7:

Aguilar	Cudaback	Johnson	Stuthman
Combs	Hudkins	McDonald	

Excused and not voting, 3:

Burling	Jensen	Pedersen, Dw.
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The Louden amendment lost with 1 aye, 38 nays, 7 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

### **STANDING COMMITTEE REPORTS**

#### **Education**

**LEGISLATIVE BILL 198.** Placed on General File.

**LEGISLATIVE BILL 199.** Indefinitely postponed.

**LEGISLATIVE BILL 418.** Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

#### **Business and Labor**

**LEGISLATIVE BILL 10.** Placed on General File.

**LEGISLATIVE BILL 236.** Placed on General File.

**LEGISLATIVE BILL 238.** Placed on General File.

(Signed) Douglas Cunningham, Chairperson

#### **General Affairs**

**LEGISLATIVE BILL 262.** Placed on General File.

**LEGISLATIVE BILL 355.** Placed on General File.

**LEGISLATIVE BILL 211.** Placed on General File as amended.

Standing Committee amendment to LB 211:

AM0071

- 1 1. On page 2, line 20, before the semicolon insert ".if
- 2 available".

**LEGISLATIVE BILL 287.** Placed on General File as amended.

Standing Committee amendment to LB 287:

AM0070

- 1 1. On page 2, strike beginning with "The" in line 16
- 2 through "(4)" in line 22.

(Signed) Ray Janssen, Chairperson

**NOTICE OF COMMITTEE HEARINGS****Revenue**  
Room 1524

LB 557	Wednesday, February 9, 2005	1:30 p.m.
LB 543	Wednesday, February 9, 2005	1:30 p.m.
LB 309	Wednesday, February 9, 2005	1:30 p.m.
LB 646	Wednesday, February 9, 2005	1:30 p.m.
LB 672	Wednesday, February 9, 2005	1:30 p.m.
LB 19	Wednesday, February 9, 2005	1:30 p.m.
LB 482	Thursday, February 10, 2005	1:30 p.m.
LB 224	Thursday, February 10, 2005	1:30 p.m.
LB 313	Thursday, February 10, 2005	1:30 p.m.
LB 312	Thursday, February 10, 2005	1:30 p.m.
LB 696	Thursday, February 10, 2005	1:30 p.m.
LB 520	Thursday, February 10, 2005	1:30 p.m.
LB 571	Thursday, February 10, 2005	1:30 p.m.
LB 500	Friday, February 11, 2005	1:30 p.m.
LB 667	Friday, February 11, 2005	1:30 p.m.
LB 235	Friday, February 11, 2005	1:30 p.m.
LB 695	Friday, February 11, 2005	1:30 p.m.

(Signed) David Landis, Chairperson

**STANDING COMMITTEE REPORT****General Affairs**

The General Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Vicki P. Bromm - Nebraska Arts Council  
 David Catalan - Nebraska Arts Council  
 Murray H. Newman - Nebraska Arts Council  
 Germelina Salumbides - Nebraska Arts Council  
 Richard J. Vierk - Nebraska Arts Council  
 Donna Woods - Nebraska Arts Council

VOTE: Aye: Senators Connealy, Cornett, Fischer, Friend, Janssen, Wehrbein. Nay: None. Absent: Senators Erdman, Landis.

(Signed) Ray Janssen, Chairperson

**MOTION - Print in Journal**

Senator Cornett filed the following motion to LB 707:  
Withdraw LB 707.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Mines asked unanimous consent to have his name added as cointroducer to LBs 69 and 70. No objections. So ordered.

Senator Connealy asked unanimous consent to have his name added as cointroducer to LB 101. No objections. So ordered.

Senator Schrock asked unanimous consent to have his name added as cointroducer to LB 129. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LBs 225 and 226. No objections. So ordered.

Senator Aguilar asked unanimous consent to have his name added as cointroducer to LB 260. No objections. So ordered.

Senator Smith asked unanimous consent to have his name added as cointroducer to LB 273. No objections. So ordered.

Senators Byars and Johnson asked unanimous consent to have their names added as cointroducers to LB 414. No objections. So ordered.

Senator Cornett asked unanimous consent to have her name added as cointroducer to LB 481. No objections. So ordered.

Senator Erdman asked unanimous consent to have his name added as cointroducer to LB 676. No objections. So ordered.

**VISITORS**

Visitor to the Chamber was Michelle Hupp from Albion.

The Doctor of the Day was Dr. Mark Butler from Lincoln.

**ADJOURNMENT**

At 11:58 a.m., on a motion by Senator Loudon, the Legislature adjourned until 10:00 a.m., Wednesday, January 26, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**FIFTEENTH DAY - JANUARY 26, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**FIFTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, January 26, 2005

**PRAYER**

The prayer was offered by Senator Stuhr.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Burling and Friend who were excused; and Senator Beutler who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fourteenth day was approved.

**REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LB 722	Natural Resources
LB 730	Judiciary (rereferred)

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

**ANNOUNCEMENT**

Senator Cunningham announced the Business and Labor Committee will meet in Room 1524 on January 31, 2005 instead of Room 2102.

**STANDING COMMITTEE REPORTS****Banking, Commerce and Insurance****LEGISLATIVE BILL 60.** Indefinitely postponed.**LEGISLATIVE BILL 84.** Indefinitely postponed.

(Signed) Mick Mines, Chairperson

**Transportation and Telecommunications****LEGISLATIVE BILL 284.** Placed on General File.

(Signed) Tom Baker, Chairperson

**NOTICE OF COMMITTEE HEARINGS**  
**Government, Military and Veterans Affairs**

Room 1507

LB 56	Wednesday, February 2, 2005	1:30 p.m.
LB 232	Wednesday, February 2, 2005	1:30 p.m.
LB 337	Wednesday, February 2, 2005	1:30 p.m.
LB 379	Wednesday, February 2, 2005	1:30 p.m.
LB 160	Thursday, February 3, 2005	1:30 p.m.
LB 432	Thursday, February 3, 2005	1:30 p.m.
LB 443	Thursday, February 3, 2005	1:30 p.m.
LB 483	Thursday, February 3, 2005	1:30 p.m.
LB 240	Friday, February 4, 2005	1:30 p.m.
LB 241	Friday, February 4, 2005	1:30 p.m.
LB 255	Friday, February 4, 2005	1:30 p.m.
LB 273	Friday, February 4, 2005	1:30 p.m.
LB 321	Friday, February 4, 2005	1:30 p.m.

(Signed) DiAnna R. Schimek, Chairperson

**Judiciary**  
Room 1113

LB 361	Wednesday, February 2, 2005	1:30 p.m.
LB 402	Wednesday, February 2, 2005	1:30 p.m.
LB 469	Wednesday, February 2, 2005	1:30 p.m.
LB 529	Wednesday, February 2, 2005	1:30 p.m.
LB 648	Wednesday, February 2, 2005	1:30 p.m.
LB 649	Wednesday, February 2, 2005	1:30 p.m.
LB 650	Wednesday, February 2, 2005	1:30 p.m.
LB 349	Thursday, February 3, 2005	1:30 p.m.
LB 431	Thursday, February 3, 2005	1:30 p.m.

LB 540	Thursday, February 3, 2005	1:30 p.m.
LB 541	Thursday, February 3, 2005	1:30 p.m.
LB 653	Thursday, February 3, 2005	1:30 p.m.
LB 754	Thursday, February 3, 2005	1:30 p.m.
LB 117	Friday, February 4, 2005	1:30 p.m.
LB 148	Friday, February 4, 2005	1:30 p.m.
LB 179	Friday, February 4, 2005	1:30 p.m.
LB 457	Friday, February 4, 2005	1:30 p.m.
LB 481	Friday, February 4, 2005	1:30 p.m.
LB 594	Friday, February 4, 2005	1:30 p.m.

(Signed) Patrick J. Bourne, Chairperson

**Revenue**  
Room 1524

LB 514	Wednesday, February 16, 2005	1:30 p.m.
LB 254	Wednesday, February 16, 2005	1:30 p.m.
LB 448	Wednesday, February 16, 2005	1:30 p.m.
LB 644	Wednesday, February 16, 2005	1:30 p.m.
LB 720	Wednesday, February 16, 2005	1:30 p.m.
LB 133	Wednesday, February 16, 2005	1:30 p.m.
LB 472	Wednesday, February 16, 2005	1:30 p.m.
LB 299	Thursday, February 17, 2005	1:30 p.m.
LB 578	Thursday, February 17, 2005	1:30 p.m.
LB 582	Thursday, February 17, 2005	1:30 p.m.
LB 600	Thursday, February 17, 2005	1:30 p.m.
LB 607	Thursday, February 17, 2005	1:30 p.m.
LB 699	Thursday, February 17, 2005	1:30 p.m.
LB 413	Wednesday, February 23, 2005	1:30 p.m.
LB 575	Wednesday, February 23, 2005	1:30 p.m.
LB 478	Wednesday, February 23, 2005	1:30 p.m.
LB 523	Wednesday, February 23, 2005	1:30 p.m.
LB 692	Wednesday, February 23, 2005	1:30 p.m.
LB 172	Thursday, February 24, 2005	1:30 p.m.
LB 311	Thursday, February 24, 2005	1:30 p.m.
LB 417	Thursday, February 24, 2005	1:30 p.m.
LB 610	Thursday, February 24, 2005	1:30 p.m.
LB 615	Thursday, February 24, 2005	1:30 p.m.
LB 753	Thursday, February 24, 2005	1:30 p.m.

(Signed) David Landis, Chairperson

**MOTION - Escort Governor**

Senator Cudaback moved that a committee of five be appointed to escort the Governor of the State of Nebraska to the Legislative Chamber to deliver his State of the State Address.

The motion prevailed.

The Chair appointed Senators Brown, Engel, Fischer, D. Pederson, and Raikes to serve on said committee.

**STATE OF THE STATE ADDRESS**

*"You can expect to find these four priorities – education, economic vitality, efficiency in government and the protection of families – woven into my decisions as Governor. They will serve as my compass as I work with you to chart a future course for our state."*

Mr. President, Mr. Speaker, Members of the Legislature, Tribal Chairmen, Distinguished Guests, Friends and Fellow Nebraskans: Thank you for the opportunity to address this body under these unique circumstances.

As I look out among you, it's reassuring to see familiar faces. Some of you are longtime friends. Speaker Brashear, our friendship over the course of the past two and a half decades has been very special to me. Congratulations on being chosen to serve as Speaker of the Legislature. The confidence your colleagues have expressed in you is well placed. Your attention to detail, creativity, and leadership abilities will serve this body well.

Senator Schimek, in a sense you and I cut our political teeth together long ago. I am grateful that we have always set aside political and philosophical differences to enjoy a friendship that follows in the great tradition of this nonpartisan institution.

I want to recognize my senator, Ray Janssen. Not only have I appreciated your representation, Senator, I appreciate the long-standing friendship that Sally and I have shared with you and Nancy. I have great respect for your work in this Legislature.

Now, I'll say a word about your senior member. Long ago, Senator Chambers and I rallied behind a piece of legislation that was proposed to assist a single individual who had been wronged by our state. Following the passage of that bill, the senator paid an unannounced visit to my office to express his appreciation. I have never forgotten that visit. So, I use this occasion to publicly thank Senator Chambers for reminding us of our responsibility to care for the less fortunate in our society.

I also see among you new acquaintances. The broad backgrounds and enthusiasm of our freshman senators are sure to contribute to the depth of debate. Whether you are beginning your first year or your 35th year of service, you were elected to serve in this capacity because you have demonstrated a commitment to our state. I share that commitment. Together, I believe we can look ahead with vision and accomplish much for our citizens.

It is quite likely that our state will never again have so much collective knowledge and experience present within this respected chamber. You have a unique opportunity to leave a lasting legacy. By extending your focus beyond the needs of today, to anticipate the future needs of Nebraska, you create a solid foundation to build upon when the torch is passed to the decision makers of tomorrow.

I am also presented with a unique opportunity. I come to this post because a great honor has been given to our 38th Governor. A resounding sense of pride is beaming from the citizens of our great state knowing that the nation's agriculture sector now has a man of wisdom and integrity at the helm. Equally important, the farmers and ranchers of our state and our nation now have an advocate who will speak passionately on their behalf. Soon, the nation will know what the citizens of Nebraska have long known – that Secretary Johanns will prove worthy of the confidence expressed in him by our President and the United States Senate.

As we wish him well in his new post, I become the first Lieutenant Governor in 45 years to assume my new post by operation of our state constitution. That fact only intensifies my determination to provide effective and insightful leadership.

I will do everything in my power to earn the trust, respect and confidence of the citizens of this great state as I begin my tenure in this new capacity. I promise you this: I will not shy away from difficult issues. I am committed to making our state an even better place in which to live, work and raise a family. Ladies and gentlemen, that journey begins here, with you.

The state of the economy offers reasons for both optimism and caution. Our state's growing economic strength is reflected in the fact that we closed the books on fiscal year 2004 more than \$100 million ahead of projections and revenues continue to exceed projections this fiscal year. Yet, I submit to you that caution is in order. I am mindful of the projected \$233 million budget gap, the low-level waste obligation, and other significant financial obligations that we face.

The budget proposal before you reflects both optimism and caution. It is a balanced budget with no tax increases and yet it funds important priorities. It addresses the low-level waste obligation in the most cost effective manner possible to ensure this burden is not passed on to future policy-makers. It is remarkable that we can financially satisfy this debt in one payment, considering the economic struggles of recent years.

You certainly demonstrated a willingness to make difficult, forward-looking decisions during the last legislative session. Despite the difficult economic times, you passed three historic reforms. I propose continuing this state's commitment to those endeavors.

My budget provides funding to build upon the very impressive progress that has already been made toward expanding behavioral health services across our state and bringing treatment closer to home. You have brought new meaning to the lives and futures of thousands of Nebraskans who view your passage of LB1083 as a declaration of their value and an invitation to contribute to their communities.

This budget continues to finance the most comprehensive reform of our child protection system in state history. And, it supports the continuing efforts to ensure the wise stewardship of water, for the sake of generations to come.

You revealed a vision for the future in all three cases and set aside individual interests to put positive change in motion. I, too, have a vision for the future. It is based on four priorities that will guide my decisions as Governor.

I believe education is the great equalizer. Our children are our hope for the future, so we have an obligation to provide them with the tools to succeed. There is no more powerful tool than knowledge.

Secondly, I believe economic vitality must be a central focus of our leadership. The population of our state shows only modest growth while the average age of our citizenry increases. As we care for our aging population, we must contemplate the future implications of this equation. It is critically important that we grow our economy. Doing so requires an examination of the many factors that influence our state's financial status.

We must support the industry that drives our state's economy. That means being very attentive to the needs of our farmers and ranchers. It means aggressively exploring opportunities in the areas of biotechnology, value-added agriculture, and foreign markets.

Inspiring growth also requires that special attention be paid to small business development, entrepreneurial support, business attraction, and worker recruitment and training. My budget sends a message to small businesses and entrepreneurs, particularly in rural Nebraska, that we are eager to support them in an effort to expand the economy of this state.

My third priority is efficiency in government. It is important that we continually seek new pathways to efficiency. I believe technology is one key to achieving this goal. Technology can provide a link that further unites our state - a link that bridges our vast prairies and sandhills. Technology has revolutionized farming, it is helping to bring health care services to the smallest of our communities, and it has opened new doors of learning in our schools. We must build on the superb progress that has been made. That means striving to be a customer friendly, customer responsive government in everything we do, from issuing permits to answering telephones.

The previously mentioned priorities matter little, however, if we fail to protect our families and provide for safe communities – my fourth priority. We are fortunate to live in Nebraska, where the crime rate is low and the level of neighborly concern is very high. Yet, we do not take the good life for granted.

We know that methamphetamine continues to destroy lives all across our state. We are fighting back on several fronts. The Attorney General and I propose to dramatically reduce the supply of a key meth-making ingredient, pseudoephedrine, through legislation that has been introduced by Senator Bourne and several others. That legislation also stiffens the penalties for meth dealers and manufacturers. On another front, I propose adding 21 troopers to ensure that we have a strong state patrol to continue fulfilling their broad responsibilities – from the war on drugs to patrolling our highways.

You can expect to find these four priorities - education, economic vitality, efficiency in government and the protection of families - woven into my decisions as Governor. They will serve as my compass as I work with you to chart a future course for our state.

That brings me full circle, back to the opportunity that lies before us. I believe it is time for us to engage in a statewide conversation with our citizens about the future of Nebraska. While we are taking care of present day needs, we must prepare for our future by asking ourselves the following questions:

Do we have a 21st Century government infrastructure that matches a 21st Century economy? I ask you to work with me to establish the kind of

infrastructure that will be needed to deliver local and state government services, health care, social services and education decades from now.

Are we preparing our children for 21st Century work opportunities? Is the classroom of the future a virtual classroom or a classroom with four walls? We must ensure that our children receive a technologically advanced and challenging education.

How do we make government more efficient? Are there well-intended government programs that began many years ago, which are no longer essential? I propose that the most important priorities for our state be identified and funded first.

Do we have a tax structure that encourages investment in future job opportunities or is it focused on job opportunities of the past? I appreciate the challenges surrounding this particular issue but I believe that now is the time to tackle them. Nebraskans understand the implications of having a virtually stable population that is aging. They know that we must grow our economy or we simply will not be able to afford the services that we currently expect from government. More importantly, we need to grow our economy to ensure that our children and grandchildren have the opportunity to find fulfilling employment right here in Nebraska.

It is time for Nebraska to adopt a 21st Century business climate that attracts new, dynamic and growing businesses of the future. I want our state to be the best state in the country, a state where opportunities truly are endless. Our citizens are ready for change. The question is whether we, in government, are ready to make the necessary changes to meet future challenges. I say that it is time to put Nebraska's future interests above any past special interests.

I believe we are ready. I am calling on every Nebraskan to share their thoughts, their concerns and their suggestions with me about how to strengthen our state. Send me a letter or an email with your ideas and I will read every one.

Members of the Legislature, you and I have a unique opportunity to leave a lasting legacy for our state. Over the next few years we must address the needs of today and then look beyond them to our future needs. I ask you to seize this opportunity to blend the knowledge and experience of long-time senators with the enthusiasm and innovation of new members and work with me to boldly set our future course. With input from our citizens, I am confident that together we will meet the challenges before us to ensure a vibrant future for our state.

The committee escorted Governor Dave Heineman from the Chamber.

## **SENATOR CUDABACK PRESIDING**

### **SELECT COMMITTEE REPORTS Enrollment and Review**

**LEGISLATIVE BILL 1.** Placed on Select File.

**LEGISLATIVE BILL 2.** Placed on Select File.

**LEGISLATIVE BILL 3.** Placed on Select File.

**LEGISLATIVE BILL 80.** Placed on Select File.

**LEGISLATIVE BILL 83.** Placed on Select File.

(Signed) Michael Flood, Chairperson

### **GENERAL FILE**

**LEGISLATIVE BILL 20.** Senator Schrock renewed his pending amendment, AM0028, found on page 358.

Senator Loudon requested a ruling of the Chair on whether the Schrock amendment is germane to the bill.

The Chair ruled the Schrock amendment is germane to the bill.

The Schrock amendment was adopted with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 51.** Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 59.** Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 88.** Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 118.** Title read. Considered.

Pending.

**NOTICE OF COMMITTEE HEARINGS****Natural Resources**

Room 1525

LB 225	Thursday, February 3, 2005	1:30 p.m.
LB 226	Thursday, February 3, 2005	1:30 p.m.
LB 601	Thursday, February 3, 2005	1:30 p.m.

Thursday, February 3, 2005 1:30 p.m.  
James J. Ziebarth - Game and Parks Commission

LB 619	Friday, February 4, 2005	1:30 p.m.
LB 342	Friday, February 4, 2005	1:30 p.m.

Friday, February 4, 2005 1:30 p.m.  
Jerry P. (Pat) Trotter - Environmental Quality Council

(Signed) Ed Schrock, Chairperson

**Health and Human Services**

Room 1510

LB 730	Thursday, February 3, 2005 (cancel)	1:30 p.m.
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(Signed) Jim Jensen, Chairperson

**STANDING COMMITTEE REPORTS****Natural Resources****LEGISLATIVE BILL 139.** Placed on General File.**LEGISLATIVE BILL 162.** Placed on General File as amended.

Standing Committee amendment to LB 162:

AM0044

- 1 1. Strike original section 2.
- 2 2. On page 2, line 3, strike "19" and insert "18".
- 3 3. On page 9, line 23; and page 10, line 20, after
- 4 "shall" insert "not".
- 5 4. On page 21, line 24, after "over" insert "having a
- 6 valid hunting permit".
- 7 5. On page 22, line 19, strike "sixty-five", show as
- 8 stricken, and insert "eighty-five" and strike "seventy-five", show
- 9 as stricken, and insert "ninety-five"; and in line 28 after "older"
- 10 insert "having a valid hunting permit".
- 11 6. On page 23, line 14, strike "15 and 23" and insert
- 12 "14 and 22"; and in line 19 strike "37-405,".
- 13 7. Renumber the remaining sections accordingly.

(Signed) Ed Schrock, Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Bourne asked unanimous consent to have his name added as cointroducer to LBs 69 and 70. No objections. So ordered.

Senator Smith asked unanimous consent to have his name added as cointroducer to LB 498. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 665. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Randy and Ralph Thomas from Lincoln.

The Doctor of the Day was Dr. Rick Gustafson from Lincoln.

**ADJOURNMENT**

At 11:57 a.m., on a motion by Senator Jensen, the Legislature adjourned until 9:00 a.m., Thursday, January 27, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**SIXTEENTH DAY - JANUARY 27, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SIXTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, January 27, 2005

**PRAYER**

The prayer was offered by Senator Wehrbein.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brown and Burling who were excused; and Senators Friend, Landis, Dw. Pedersen, and D. Pederson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifteenth day was approved.

**STANDING COMMITTEE REPORT  
Agriculture**

**LEGISLATIVE BILL 441.** Placed on General File.

(Signed) Bob Kremer, Chairperson

**NOTICE OF COMMITTEE HEARING  
Nebraska Retirement Systems  
Room 1525**

LB 494	Thursday, February 3, 2005	12:15 p.m.
LB 503	Thursday, February 3, 2005	12:15 p.m.

(Signed) Elaine Stuhr, Chairperson

**REPORTS**

The following reports were received by the Legislature:

**Administrative Services, Department of**

Comprehensive Annual Financial Report for FY 2004

**Auditor of Public Accounts**

Retirement Systems, Public Employees - School Employees, Judges, and  
State Patrol Retirement Plans Audit Report

**Health and Human Services System**

Office of the System Advocate Quarterly Report, October-December 2004

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of January 26, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Abboud, Chris, Public Affairs Group  
Hotel & Motel Association, Inc., Nebraska

Amack, Angela K.  
Grand Island Public Schools

Blankenau, Don, of Fennemore Craig  
League of Nebraska Municipalities  
Ted's Tobacco

Bromm, Jaron, of Fennemore Craig  
Ted's Tobacco

Campbell, Mary M./Campbell & Associates  
Nurse Executives, Nebraska Organization of

Grove, Marvin M.  
ABATE of Nebraska, Inc.

Ruth Mueller Robak LLC  
Airport Officials, Nebraska Association of

Schutt, Larry D.  
ABATE of Nebraska, Inc.

Tumbleson, Brandi Holys  
March of Dimes Birth Defects Foundation

**MOTION - Withdraw LB 707**

Senator Cornett renewed her pending motion, found on page 362, to withdraw LB 707.

The Cornett motion to withdraw prevailed with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

**GENERAL FILE**

**LEGISLATIVE BILL 118.** Considered.

Senator Chambers offered the following amendment:  
AM0136

- 1 1. On page 3, strike beginning with "approve" in line 25
- 2 through line 28 and insert "neither unreasonably deny nor
- 3 unreasonably withhold its response to such a request.".
- 4 2. On page 4, line 1, strike "deemed approved."; and
- 5 strike beginning with "A" in line 6 through line 10.

The Chambers amendment was adopted with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

**NOTICE OF COMMITTEE HEARINGS****Agriculture**

Room 1524

LB 439	Tuesday, February 8, 2005	1:30 p.m.
LB 492	Tuesday, February 8, 2005	1:30 p.m.
LB 346	Tuesday, February 8, 2005	1:30 p.m.

Room 2102

LB 317	Tuesday, February 15, 2005	1:30 p.m.
LB 286	Tuesday, February 15, 2005	1:30 p.m.
LB 706	Tuesday, February 15, 2005	1:30 p.m.
LB 531	Tuesday, February 15, 2005	1:30 p.m.

(Signed) Bob Kremer, Chairperson

**Urban Affairs**

Room 1510

LB 48	Tuesday, February 8, 2005	1:30 p.m.
LB 135	Tuesday, February 8, 2005	1:30 p.m.
LB 384	Tuesday, February 8, 2005	1:30 p.m.

LB 414	Tuesday, February 8, 2005	1:30 p.m.
LB 748	Tuesday, February 8, 2005	1:30 p.m.
LB 302	Tuesday, February 15, 2005	1:30 p.m.
LB 479	Tuesday, February 15, 2005	1:30 p.m.
LB 528	Tuesday, February 15, 2005	1:30 p.m.
LB 626	Tuesday, February 15, 2005	1:30 p.m.
LB 698	Tuesday, February 15, 2005	1:30 p.m.
LR 2CA	Tuesday, February 15, 2005	1:30 p.m.
LB 289	Tuesday, February 22, 2005	1:30 p.m.
LB 518	Tuesday, February 22, 2005	1:30 p.m.
LB 629	Tuesday, February 22, 2005	1:30 p.m.
LB 630	Tuesday, February 22, 2005	1:30 p.m.
LB 651	Tuesday, February 22, 2005	1:30 p.m.
LB 734	Tuesday, February 22, 2005	1:30 p.m.
LB 461	Tuesday, March 1, 2005	1:30 p.m.
LB 735	Tuesday, March 1, 2005	1:30 p.m.
LR 18CA	Tuesday, March 1, 2005	1:30 p.m.

(Signed) Mike Friend, Chairperson

### **STANDING COMMITTEE REPORTS**

#### **Natural Resources**

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Donald Kohtz - Nebraska Power Review Board

VOTE: Aye: Senators Hudkins, Kopplin, Kremer, Loudon, McDonald, Schrock, Smith, Stuhr. Nay: None. Absent: None.

(Signed) Ed Schrock, Chairperson

**LEGISLATIVE BILL 32.** Placed on General File.

**LEGISLATIVE BILL 508.** Placed on General File.

**LEGISLATIVE BILL 137.** Indefinitely postponed.

(Signed) Ed Schrock, Chairperson

#### **Revenue**

**LEGISLATIVE BILL 499.** Placed on General File.

(Signed) David Landis, Chairperson

**Health and Human Services**

**LEGISLATIVE BILL 87.** Placed on General File.

**LEGISLATIVE BILL 85.** Placed on General File as amended.

Standing Committee amendment to LB 85:

AM0126

- 1 1. On page 2, line 9, strike "department" and insert
- 2 "Department of Health and Human Services" and after "annually"
- 3 insert "on September 1"; and in line 27 strike "each year" and
- 4 insert "annually on September 1".

(Signed) Jim Jensen, Chairperson

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 33.** Introduced by Byars, 30.

WHEREAS, William Rush was a quadriplegic because of cerebral palsy which required him to be confined to a wheelchair but did not confine his accomplishments; and

WHEREAS, in 1983 William Rush was the first quadriplegic to graduate with honors from the University of Nebraska-Lincoln, graduating from the College of Journalism; and

WHEREAS, William Rush used a voice synthesis technology which allowed him to have a voice and speak up for people with disabilities; and

WHEREAS, by using a stick attached to a helmet he wore and typing each letter, he wrote his autobiography Journey Out of Silence, which was published in 1986; and

WHEREAS, William Rush was a writer and an advocate for people with disabilities at the local level by writing op-ed pieces in the Omaha World-Herald, Lincoln Journal, and the Lincoln Star, and testifying before Congress about the Americans with Disabilities Act; and

WHEREAS, William Rush married Christine Robinson, who saw the man and the possibilities; and

WHEREAS, the state has been fortunate to have an advocate of William Rush's caliber defending the rights of, and being the voice for, so many disabled individuals; and

WHEREAS, William Rush died at the age of forty-nine after succumbing to pneumonia but not to his disability.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature extends its sympathies to William Rush's wife, Christine Robinson.
2. That a copy of this resolution be sent to Christine Robinson.

Laid over.

**LEGISLATIVE RESOLUTION 34.** Introduced by Loudon, 49.

WHEREAS, Steven M. Scott is the son of DeDee and Ed Sinner of Morrill, Nebraska; and

WHEREAS, Steven has attained the rank of Eagle Scout; and

WHEREAS, the Eagle Scout Court of Honor for Steven will be held January 30, 2005, at the United Methodist Church in Morrill, Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Steven M. Scott on the attainment of the rank of Eagle Scout.

2. That a copy of this resolution be sent to Mr. and Mrs. Sinner and Mr. Scott.

Laid over.

**GENERAL FILE****LEGISLATIVE BILL 119.** Title read. Considered.

The Standing Committee amendment, AM0016, found on page 309, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Senator Beutler offered the following amendment:

FA3

Strike Section 28.

**SENATOR SCHIMEK PRESIDING****SENATOR CUDABACK PRESIDING****SPEAKER BRASHEAR PRESIDING**

Pending.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 19, 20, and 21 were adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 19, 20, and 21.

**NOTICE OF COMMITTEE HEARINGS**  
**General Affairs**  
 Room 1510

LB 388	Monday, February 7, 2005	1:30 p.m.
LB 530	Monday, February 7, 2005	1:30 p.m.
LB 562	Monday, February 7, 2005	1:30 p.m.
LB 563	Monday, February 7, 2005	1:30 p.m.

Monday, February 7, 2005	1:30 p.m.
Riley H. George - State Electrical Board	
Tom F. Ourada - State Electrical Board	

(Signed) Ray Janssen, Chairperson

**Executive Board**  
 Room 2102

LR 3CA	Wednesday, February 9, 2005	12:00 p.m.
LR 5CA	Wednesday, February 9, 2005	12:00 p.m.
LR 14CA	Wednesday, February 9, 2005	12:00 p.m.
LR 16CA	Wednesday, February 9, 2005	12:00 p.m.
LB 180	Friday, February 11, 2005	12:00 p.m.
LB 588	Friday, February 11, 2005	12:00 p.m.
LR 27CA	Friday, February 11, 2005	12:00 p.m.

(Signed) L. Patrick Engel, Chairperson

**AMENDMENT - Print in Journal**

Senator Chambers filed the following amendment to LB 20:  
 AM0117

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following sections:
- 3 "Section 1. Section 37-524.01, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 37-524.01. (1) It shall be illegal to knowingly engage
- 6 in, sponsor, instigate, assist, or profit from the release,
- 7 killing, wounding, or attempted killing or wounding of animals of
- 8 the Families Tayassuidae and Suidae for the purpose of sport,
- 9 pleasure, amusement, or production of a trophy. The commission may
- 10 destroy any feral swine and may authorize any agents, including
- 11 landowners, to destroy and dispose of any feral swine.
- 12 (2) For purposes of this section, feral swine means swine
- 13 whose reversion from the domesticated state to a stable condition
- 14 more or less resembling the wild is apparent or an otherwise freely
- 15 roaming swine having no visible tags, marking, or characteristics
- 16 indicating that it is from a domestic herd, and reasonable inquiry

- 17 within the area does not identify an owner.  
 18 (3) Any person violating subsection (1) of this section  
 19 is guilty of a Class II misdemeanor.  
 20 Sec. 2. The duties and liabilities imposed by sections  
 21 54-401 to 54-415 do not apply in the case of estray or trespass of  
 22 feral swine as defined in section 37-524.01. Feral swine may be  
 23 destroyed as provided in section 37-524.01.  
 24 Sec. 3. Original section 37-524.01, Reissue Revised  
 1 Statutes of Nebraska, is repealed.  
 2 Sec. 4. Since an emergency exists, this act takes effect  
 3 when passed and approved according to law."

### **STANDING COMMITTEE REPORTS**

#### **Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 9.** Placed on General File.

**LEGISLATIVE BILL 55.** Placed on General File as amended.  
 Standing Committee amendment to LB 55:  
 AM0137

- 1 1. Insert the following new section:
- 2 "Sec. 4. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

(Signed) DiAnna R. Schimek, Chairperson

#### **Urban Affairs**

**LEGISLATIVE BILL 14.** Placed on General File as amended.  
 Standing Committee amendment to LB 14:  
 AM0135

- 1 1. Add the following new section:
- 2 "Sec. 4. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

**LEGISLATIVE BILL 22.** Placed on General File as amended.  
 Standing Committee amendment to LB 22:  
 AM0132

- 1 1. On page 2, strike beginning with "the" in line 22
- 2 through the first "and" in line 24.

**LEGISLATIVE BILL 75.** Placed on General File as amended.  
 Standing Committee amendment to LB 75:  
 AM0022

- 1 1. Insert the following new section:
- 2 "Sec. 3. Section 16-201, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 16-201. Each city of the first class shall be a body
- 5 corporate and politic and shall have power (1) to sue and be sued,

6 (2) to purchase, lease, lease with option to buy, or acquire by  
7 gift or devise and to hold real and personal property within or  
8 without the limits of the city and real estate sold for taxes for  
9 the use of the city in such manner and upon such terms and  
10 conditions as may be deemed in the best interests of the city, (3)  
11 to sell and convey, exchange, or lease any real or personal  
12 property owned by the city, including park land, in such manner and  
13 upon such terms and conditions as may be deemed in the best  
14 interests of the city, except that real estate owned by the city  
15 may be conveyed without consideration to the State of Nebraska for  
16 state armory sites or, if acquired for state armory sites, shall be  
17 conveyed in the manner strictly as provided in sections 18-1001 to  
18 18-1006, (4) to make all contracts and do all other acts in  
19 relation to the property and concerns of the city necessary to the  
20 exercise of its corporate powers, ~~and~~ (5) to exercise such other  
21 and further powers as may be conferred by law, and (6) to make  
22 local improvements and pay for those improvements by special  
23 assessments or by special taxation of property benefited. Any  
24 improvement district to be created pursuant to the authority  
1 granted in subdivision (6) of this section shall be approved by  
2 either fifty-one percent or more of the registered voters voting on  
3 the issue who reside in the proposed district or by at least  
4 seventy percent of the members of the city council."  
5 2. On page 15, line 6; and page 16, line 24, before the  
6 period insert ". Any improvement district to be created pursuant  
7 to the authority granted in this subdivision shall be approved by  
8 either fifty-one percent or more of the registered voters voting on  
9 the issue who reside in the proposed district or by at least  
10 seventy percent of the members of the city council".  
11 3. On page 17, line 1, strike "section 15-201" and  
12 insert "sections 15-201 and 16-201".  
13 4. Renumber the remaining section accordingly.

(Signed) Mike Friend, Chairperson

### UNANIMOUS CONSENT - Add Cointroducers

Senator Loudon asked unanimous consent to have his name added as cointroducer to LB 285. No objections. So ordered.

Senator Schimek asked unanimous consent to have her name added as cointroducer to LB 332. No objections. So ordered.

Senator Thompson asked unanimous consent to have her name added as cointroducer to LB 347. No objections. So ordered.

Senator Redfield asked unanimous consent to have her name added as cointroducer to LB 399. No objections. So ordered.

Senator Stuhr asked unanimous consent to have her name added as cointroducer to LB 439. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 445. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 70 junior and senior high school students and teacher from Westside High School, Omaha; Senator Synowiecki's son, Michael, and Robby Klug from Omaha; Ed and Nick Matney from Dakota County; and Catherine Piccinin, Morgan Currie, and Todd Preston from Ottawa, Ontario.

### **ADJOURNMENT**

At 11:59 a.m., on a motion by Senator Redfield, the Legislature adjourned until 9:00 a.m., Monday, January 31, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

# SEVENTEENTH DAY - JANUARY 31, 2005

## LEGISLATIVE JOURNAL

### NINETY-NINTH LEGISLATURE FIRST SESSION

#### SEVENTEENTH DAY

Legislative Chamber, Lincoln, Nebraska  
Monday, January 31, 2005

#### PRAAYER

The prayer was offered by Senator Engel.

#### ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Byars, Combs, Foley, Loudon, and Stuthman who were excused until they arrive.

#### CORRECTIONS FOR THE JOURNAL

The Journal for the sixteenth day was approved.

#### STANDING COMMITTEE REPORTS

##### Urban Affairs

**LEGISLATIVE BILL 92.** Placed on General File as amended.

Standing Committee amendment to LB 92:

AM0133

- 1 1. On page 2, lines 10 and 11 and 25 and 26; page 3,
- 2 lines 22 and 23; and page 4, lines 3 through 5, strike beginning
- 3 with the underscored period through "property".
- 4 2. On page 3, after line 4, insert the following new
- 5 subsection:
- 6 "(4) The title to property vacated pursuant to this
- 7 section shall be subject to the following: (a) There is reserved
- 8 to the city the right to maintain, operate, repair, and renew
- 9 sewers now existing there and (b) there is reserved to the city,
- 10 any public utilities, and any cable television systems the right to
- 11 maintain, repair, renew, and operate installed water mains, gas
- 12 mains, pole lines, conduits, electrical transmission lines, sound
- 13 and signal transmission lines, and other similar services and
- 14 equipment and appurtenances above, on, and below the surface of the
- 15 ground for the purposes of serving the general public or the

16 abutting properties, including such lateral connections or branch  
17 lines as may be ordered or permitted by the city or such public  
18 utility or cable television system and to enter upon the premises  
19 to accomplish such purposes at any and all reasonable times."  
20 3. On page 4, after line 11, insert the following new  
21 subsection:  
22 "(5) The title to property vacated pursuant to this  
23 section shall be subject to the following: (a) There is reserved  
24 to the city or village the right to maintain, operate, repair, and  
1 renew sewers now existing there and (b) there is reserved to the  
2 city or village, any public utilities, and any cable television  
3 systems the right to maintain, repair, renew, and operate installed  
4 water mains, gas mains, pole lines, conduits, electrical  
5 transmission lines, sound and signal transmission lines, and other  
6 similar services and equipment and appurtenances above, on, and  
7 below the surface of the ground for the purposes of serving the  
8 general public or the abutting properties, including such lateral  
9 connections or branch lines as may be ordered or permitted by the  
10 city of village or such public utility or cable television system  
11 and to enter upon the premises to accomplish such purposes at any  
12 and all reasonable times."

**LEGISLATIVE BILL 234.** Placed on General File as amended.

Standing Committee amendment to LB 234:

AM0134

1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 16-672.01, Reissue Revised Statutes  
4 of Nebraska, is amended to read:  
5 16-672.01. Supplemental to any existing law on the  
6 subject, whenever the mayor and city council of any city of the  
7 first class in Nebraska, shall deem it advisable or necessary to  
8 construct storm water sewers and appurtenances in any section of  
9 the city and the ~~territory one mile beyond its corporate limits~~  
10 extraterritorial zoning jurisdiction of the city as established  
11 pursuant to section 16-902, together with outlets for the same, the  
12 advisability and necessity thereof shall be declared in a proposed  
13 ordinance, which ordinance shall state the kinds of pipe proposed  
14 to be used, and shall include cement concrete pipe and vitrified  
15 clay pipe and any other material deemed suitable and shall state  
16 the size or sizes and kinds of sewers proposed to be constructed  
17 and shall designate the location and terminal points thereof. The  
18 ordinance shall refer to the plans and specifications thereof which  
19 shall have been made and filed with the municipal clerk by the city  
20 engineer before publication of such ordinance. Such city engineer  
21 shall also make and file, prior to the publication of such  
22 ordinance, an estimate of the total cost of the proposed  
23 improvement, which shall be stated in ~~said~~ the ordinance. The  
24 mayor and city council shall have power to assess, to the extent of

1 special benefits, the cost of such portions of ~~said~~ the  
 2 improvements as are local improvements, upon properties found  
 3 specifically benefited thereby; and the ordinance shall state the  
 4 outer boundaries of the district or districts in which it is  
 5 proposed to make special assessments.  
 6 Sec. 2. Original sections 16-672.01, Reissue Revised  
 7 Statutes of Nebraska, is repealed."

(Signed) Mike Friend, Chairperson

**NOTICE OF COMMITTEE HEARINGS**  
**Transportation and Telecommunications**  
 Room 1113

LB 136	Tuesday, February 8, 2005	1:30 p.m.
LB 645	Tuesday, February 8, 2005	1:30 p.m.

(Signed) Tom Baker, Chairperson

**Education**  
 Room 1525

LB 5	Monday, February 7, 2005	1:30 p.m.
LB 467	Monday, February 7, 2005	1:30 p.m.
LB 579	Monday, February 7, 2005	1:30 p.m.
LB 637	Monday, February 7, 2005	1:30 p.m.
LB 689	Monday, February 7, 2005	1:30 p.m.
LB 718	Monday, February 7, 2005	1:30 p.m.

Monday, February 7, 2005	1:30 p.m.
Stan Carpenter - Nebraska Educational Telecommunications Commission	
Mary Harbaugh - Nebraska Educational Telecommunications Commission	

(Signed) Ron Raikes, Chairperson

**MESSAGE FROM THE GOVERNOR**

January 28, 2005

Speaker Brashear, Members of the  
 Legislature  
 State Capitol Building  
 Lincoln, NE 68509

Dear Speaker Brashear and Senators:

I appointed Mr. Rick Sheehy as Lieutenant Governor effective Monday, January 24, 2005. Attached is a copy of his oath of office.



Aguilar	Cornett	Friend	Landis	Raikes
Baker	Cudaback	Heidemann	Langemeier	Schimek
Bourne	Cunningham	Howard	McDonald	Schrock
Brashear	Engel	Hudkins	Pahls	Stuhr
Brown	Erdman	Janssen	Pedersen, Dw.	Synowiecki
Burling	Fischer	Jensen	Pederson, D.	Thompson
Connealy	Flood	Kopplin	Price	Wehrbein

Voting in the negative, 0.

Present and not voting, 9:

Beutler	Johnson	Kruse	Preister	Smith
Chambers	Kremer	Mines	Redfield	

Excused and not voting, 5:

Byars	Combs	Foley	Louden	Stuthman
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The appointment was confirmed with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 378:

Nebraska Power Review Board  
Donald Kohtz

Voting in the affirmative, 34:

Aguilar	Cudaback	Hudkins	McDonald	Schimek
Baker	Engel	Janssen	Pahls	Schrock
Bourne	Erdman	Jensen	Pedersen, Dw.	Stuhr
Brown	Fischer	Johnson	Pederson, D.	Synowiecki
Burling	Flood	Kopplin	Price	Thompson
Byars	Friend	Kremer	Raikes	Wehrbein
Connealy	Heidemann	Louden	Redfield	

Voting in the negative, 0.

Present and not voting, 11:

Beutler	Cornett	Landis	Preister
Brashear	Howard	Langemeier	Smith
Chambers	Kruse	Mines	

Excused and not voting, 4:

Combs	Cunningham	Foley	Stuthman
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The appointment was confirmed with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Senator Stuhr moved the adoption of the Nebraska Retirement Systems Committee report for the confirmation of the following appointment(s) found on page 357:

Nebraska Investment Council  
John Maddux

Voting in the affirmative, 34:

Aguilar	Cudaback	Howard	Landis	Schimek
Baker	Engel	Hudkins	Louden	Schrock
Bourne	Erdman	Janssen	McDonald	Stuhr
Brown	Fischer	Jensen	Pedersen, Dw.	Synowiecki
Burling	Flood	Johnson	Pederson, D.	Thompson
Connealy	Friend	Kopplin	Price	Wehrbein
Cornett	Heidemann	Kremer	Redfield	

Voting in the negative, 0.

Present and not voting, 11:

Beutler	Chambers	Mines	Raikes
Brashear	Kruse	Pahls	Smith
Byars	Langemeier	Preister	

Excused and not voting, 4:

Combs	Cunningham	Foley	Stuthman
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The appointment was confirmed with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Senator Janssen moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 361:

Nebraska Arts Council  
Vicki P. Bromm  
David Catalan  
Murray H. Newman  
Germelina Salumbides  
Richard J. Vierk  
Donna Woods

Voting in the affirmative, 36:

Aguilar	Engel	Jensen	Mines	Stuhr
Baker	Erdman	Johnson	Pahls	Synowiecki
Bourne	Fischer	Kopplin	Pedersen, Dw.	Thompson
Brashear	Flood	Kremer	Pederson, D.	Wehrbein
Burling	Friend	Landis	Price	
Connealy	Heidemann	Langemeier	Raikes	
Cornett	Hudkins	Louden	Redfield	
Cudaback	Janssen	McDonald	Schimek	

Voting in the negative, 0.

Present and not voting, 9:

Beutler	Byars	Howard	Preister	Smith
Brown	Chambers	Kruse	Schrock	

Excused and not voting, 4:

Combs	Cunningham	Foley	Stuthman
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The appointments were confirmed with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

### GENERAL FILE

**LEGISLATIVE BILL 119.** Senator Beutler withdrew his pending amendment, FA3, found on page 380.

Senator Beutler offered the following amendment:

FA4

On page 33 strike all of subparagraph "(B)" beginning on line 5 and ending on line 9 and renumber accordingly.

Senator Beutler withdrew his amendment.

Senator Beutler offered the following amendment:

AM0158

- 1 1. On page 101, line 22, after the period insert "The
- 2 review processes and procedures established by the Commission shall
- 3 provide that an Insurer shall not issue a Product until the Product
- 4 has been approved as satisfying the applicable Uniform Standard.".
- 5 2. On page 109, line 23, after the period insert "The
- 6 director shall consult with the Banking, Commerce and Insurance
- 7 Committee of the Legislature prior to voting as this state's
- 8 representative on the adoption of or modification to a Uniform
- 9 Standard as defined in section 35 of this act.".

Senator Beutler withdrew his amendment.

Senator Beutler offered the following amendment:

AM0159

- 1 1. Insert the following new section:
- 2 "Sec. 27. Section 44-7508.02, Reissue Revised Statutes
- 3 of Nebraska, is amended to read:
- 4 44-7508.02. (1) For policy forms to which this section
- 5 applies as provided in section 44-7508.01, each insurer shall file
- 6 with the director every policy form and related attachment rule and
- 7 every modification thereof which it proposes to use. For policy
- 8 forms to which this section applies, no insurer shall issue a
- 9 contract or policy except in accordance with the filings that are
- 10 in effect for such insurer as provided in the Property and Casualty
- 11 Insurance Rate and Form Act except as provided in subsection (10)
- 12 or (11) of this section or as provided by rules and regulations
- 13 adopted and promulgated pursuant to section 44-7514 or 44-7515.
- 14 (2) Every filing shall state its effective date, which
- 15 shall not be prior to the date that the director receives the
- 16 filing.
- 17 (3) Every policy form filing shall explain the intended
- 18 use of such policy forms. Filings shall include a list of policy
- 19 forms that will be replaced when the approval of a filing will
- 20 result in the replacement of previously approved policy forms. In
- 21 addition, insurers shall maintain listings of policy forms that
- 22 have been filed so that such listings can be provided upon request.
- 23 (4) The director shall acknowledge receipt of a policy
- 24 form filing as soon as practical. A review of the filing by the
- 1 director is not required to issue this acknowledgment, and
- 2 acknowledgment shall not constitute an approval by the director.
- 3 (5) The director may review a policy form filing at any
- 4 time after it has been made. The director shall review a policy
- 5 form filing for insurance covering risks of a personal nature,
- 6 including insurance for homeowners, tenants, private passenger
- 7 nonfleet automobiles, mobile homes, and other property and casualty
- 8 insurance for personal, family, or household needs, within ninety
- 9 days after the filing has been made. Following such review, the
- 10 director shall disapprove a filing that contains provisions,
- 11 exceptions, or conditions that: (a) Are unjust, unfair, ambiguous,
- 12 inconsistent, inequitable, misleading, deceptive, or contrary to
- 13 public policy; (b) are written so as to encourage the
- 14 misrepresentation of coverage; (c) fail to reasonably provide the
- 15 general coverage for policies of that type; (d) fail to comply with
- 16 the provisions or the intent of the laws of this state; or (e)
- 17 would provide coverage contrary to the public interest.
- 18 (6) If, within thirty days after its receipt, the
- 19 director disapproves a filing that requires disapproval pursuant to
- 20 subsection (5) of this section, then a written disapproval notice
- 21 shall be sent to the insurer. The disapproval notice shall specify
- 22 in what respects the filing fails to meet these requirements. Upon
- 23 receipt of the notice of disapproval, the insurer shall cease use

24 of the filing as soon as practical but may use the form for  
25 policies that have already been issued or when pending coverage  
26 proposals are outstanding.

27 (7) If, within thirty days after its receipt, the  
1 director requests additional information to complete review of a  
2 policy form filing, the thirty-day review period allowed in  
3 subsection (6) of this section shall commence on the date such  
4 information is received by the director. If a filer fails to  
5 furnish the required information within ninety days, the director  
6 may, by written notice sent to the insurer, deem the filing as  
7 withdrawn and not available for use.

8 (8) An insurer whose filing is disapproved pursuant to  
9 subsection (6) of this section may, within thirty days after  
10 receipt of a disapproval notice, request a hearing in accordance  
11 with section 44-7532.

12 (9) An insurer may authorize the director to accept  
13 policy form filings made on its behalf by an advisory organization.

14 (10)(a) Subject to the requirements of this subsection,  
15 policy forms unique in character and designed for and used with  
16 regard to an individual risk under common ownership subject to the  
17 rate filing provisions of section 44-7508 shall be exempt from  
18 subsection (1) of this section.

19 (b) At the earliest practical opportunity, but no later  
20 than thirty days after the effective date of the policy using  
21 unfiled provisions, the insurer shall provide the prospective  
22 insured with a written listing of the policy forms that have not  
23 been filed with the director. This requirement does not apply to  
24 renewals using the same unfiled policy forms.

25 (c) A policy form that has been used in this state or  
26 elsewhere by the insurer for another risk shall not be subject to  
27 the exemption provided by this subsection, except that an insurer  
1 may use a policy form previously developed for a single risk for a  
2 second risk if the policy form is filed within sixty days after its  
3 second usage.

4 (d) The exemption provided by this subsection shall not  
5 apply to policy forms that, prior to their use by the insurer, had  
6 been filed by an advisory organization in this state or had been  
7 filed by the insurer in any jurisdiction, regardless of whether  
8 approval was received.

9 (e) The director may by rule and regulation or by order  
10 make specific restrictions relating to the exemption provided by  
11 this subsection and may require the informational filing of policy  
12 forms subject to such exemption within a reasonable time after  
13 their use. Any such informational filings specifically relating to  
14 individual risks shall be confidential and may not be made public  
15 by the director except as may be compiled in summaries of such  
16 activity.

17 (11) The director may by rule and regulation suspend or  
18 modify the filing requirements of this section as to any type of

19 insurance or class of risk for which policy forms cannot  
20 practicably be filed before they are used. The director may  
21 examine insurers as is necessary to ascertain whether any policy  
22 forms affected by such rules and regulations meet the standards  
23 contained in the Property and Casualty Insurance Rate and Form Act.

24 (12) If, at any time after the expiration of the review  
25 period provided by subsection (6) of this section or any extension  
26 thereof, the director finds that a policy form, attachment rule, or  
27 modification thereof does not meet or no longer meets the  
1 requirements of subsection (5) of this section, the director shall  
2 hold a hearing in accordance with section 44-7532.

3 (13) Any insured aggrieved with respect to any policy  
4 form filing subject to this section may make written application to  
5 the director for a hearing on such filing. The hearing application  
6 shall specify the grounds to be relied upon by the applicant. If  
7 the director finds that the hearing application is made in good  
8 faith, that a remedy would be available if the grounds are  
9 established, or that such grounds otherwise justify holding a  
10 hearing, the director shall hold a hearing in accordance with  
11 section 44-7532.

12 (14) If, after a hearing held pursuant to subsection (12)  
13 or (13) of this section, the director finds that a filing does not  
14 meet the requirements of subsection (5) of this section, the  
15 director shall issue an order stating in what respects such filing  
16 fails to meet the requirements and when, within a reasonable period  
17 thereafter, such policy form or attachment rule shall no longer be  
18 used. Copies of the order shall be sent to the applicant, if  
19 applicable, and to every affected insurer and advisory  
20 organization. The order shall not affect any contract or policy  
21 made or issued prior to the expiration of the period set forth in  
22 the order."

23 2. On page 116, line 2, strike the third comma and  
24 insert "to".

25 3. Renumber the remaining sections and correct internal  
26 references accordingly.

Senator Beutler withdrew his amendment.

Senator Mines moved for a call of the house. The motion prevailed with 22  
ayes, 0 nays, and 27 not voting.

Advanced to E & R for review with 41 ayes, 0 nays, 5 present and not  
voting, and 3 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 33.** Title read. Considered.

Advanced to E & R for review with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 21.** Title read. Considered.

The Standing Committee amendment, AM0027, found on page 313, was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 261.** Title read. Considered.

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion failed with 17 ayes, 12 nays, and 20 not voting.

Senator Chambers offered the following motion:  
Indefinitely postpone.

Senator Chambers withdrew his motion.

Senator Hudkins offered the following motion:  
Indefinitely postpone.

The Hudkins motion failed with 5 ayes, 27 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 29 ayes, 5 nays, 12 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 169.** Title read. Considered.

The Standing Committee amendment, AM0013, found on page 315, was adopted with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

## **SELECT COMMITTEE REPORTS**

### **Enrollment and Review**

**LEGISLATIVE BILL 20.** Placed on Select File as amended.

E & R amendment to LB 20:

AM7000

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:

3 "Section 1. Section 37-524.01, Reissue Revised Statutes  
4 of Nebraska, is amended to read:

5 37-524.01. (1) It shall be illegal to knowingly engage  
6 in, sponsor, instigate, assist, or profit from the release,  
7 killing, wounding, or attempted killing or wounding of animals of  
8 the Families Tayassuidae and Suidae for the purpose of sport,  
9 pleasure, amusement, or production of a trophy. The commission may  
10 destroy any feral swine and may authorize any agents to destroy and  
11 dispose of any feral swine.

12 (2) For purposes of this section, feral swine means swine  
13 whose reversion from the domesticated state to a stable condition  
14 more or less resembling the wild is apparent or an otherwise freely  
15 roaming swine having no visible tags, marking, or characteristics  
16 indicating that it is from a domestic herd, and reasonable inquiry  
17 within the area does not identify an owner.

18 (3) Any person violating subsection (1) of this section  
19 is guilty of a Class II misdemeanor.

20 Sec. 2. Section 54-170, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 54-170. Sections 54-170 to 54-1,127 and section 5 of  
23 this act shall be known and may be cited as the Livestock Brand  
24 Act.

1 Sec. 3. Section 54-171, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3 54-171. For purposes of the Livestock Brand Act, the  
4 definitions found in sections 54-172 to 54-190 and section 5 of  
5 this act shall be used.

6 Sec. 4. Section 54-183, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 54-183. Livestock means any domestic cattle, horses,  
9 mules, donkeys, sheep, or swine excluding feral swine.

10 Sec. 5. Feral swine means swine whose reversion from the  
11 domesticated state to a stable condition more or less resembling  
12 the wild is apparent or an otherwise freely roaming swine having no  
13 visible tags, marking, or characteristics indicating that it is  
14 from a domestic herd, and reasonable inquiry within the area does  
15 not identify an owner.

16 Sec. 6. The duties and liabilities imposed by sections  
17 54-401 to 54-415 do not apply in the case of estray or trespass of  
18 feral swine. Feral swine may be destroyed as provided in section  
19 37-524.01.

20 Sec. 7. Section 54-415, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 54-415. Any person taking up an estray shall report the  
23 same within seven days thereafter to the Nebraska Brand Committee,  
24 if within the brand inspection area, or to the county sheriff of  
25 the county where the estray was taken up, if not within the brand  
26 inspection area. If the animal is determined to be an estray by a  
27 representative of the Nebraska Brand Committee or the county

1 sheriff, as the case may be, such animal shall, as promptly as may  
2 be practicable, be sold through the most convenient livestock  
3 auction market. The proceeds of such sale, after deducting the  
4 selling expenses, shall be paid over to the Nebraska Brand  
5 Committee to be placed in the estray fund identified in section  
6 54-1,118, if such estray was taken up within the brand inspection  
7 area, and otherwise to the treasurer of the county in which such  
8 estray was taken up. During the time such proceeds are impounded,  
9 any person taking up such estray may file claim with the Nebraska  
10 Brand Committee or the county treasurer, as the case may be, for  
11 the expense of feeding and keeping such estray while in his or her  
12 possession. When such claim is filed, it shall be the duty of the  
13 Nebraska Brand Committee or the county board, as the case may be,  
14 to decide on the validity of the claim so filed and allow the claim  
15 for such amount as may be deemed equitable. When the estray  
16 originates within the brand inspection area, such proceeds shall be  
17 impounded for one year, unless ownership is determined sooner by  
18 the Nebraska Brand Committee, and if ownership is not determined  
19 within such one-year period, the proceeds shall be paid into the  
20 permanent school fund, less the actual expenses incurred in the  
21 investigation and processing of the estray fund. Any amount  
22 deducted as actual expenses incurred shall be deposited in the  
23 Nebraska Brand Inspection and Theft Prevention Fund. When the  
24 estray is located outside the brand inspection area and ownership  
25 cannot be determined by the county board, the county board shall  
26 then order payment of the balance of the sale proceeds, less  
27 expenses, to the permanent school fund. If the brand committee or  
1 the county board determines ownership of an estray sold in  
2 accordance with this section by means of evidence of ownership  
3 other than the owner's recorded Nebraska brand, an amount not to  
4 exceed the actual investigative costs or expenses may be deducted  
5 from the proceeds of the sale. Any person who violates this  
6 section is guilty of a Class II misdemeanor. The definitions found  
7 in sections 54-172 to 54-190 and section 5 of this act apply to  
8 this section.

9 Sec. 8. Original sections 37-524.01, 54-170, 54-171,  
10 54-183, and 54-415, Reissue Revised Statutes of Nebraska, are  
11 repealed.

12 Sec. 9. Since an emergency exists, this act takes effect  
13 when passed and approved according to law."

14 2. On page 1, strike beginning with "the" in line 1  
15 through line 5 and insert "swine; to amend sections 37-524.01,  
16 54-170, 54-171, 54-183, and 54-415, Reissue Revised Statutes of  
17 Nebraska; to prohibit the release of swine for sport; to provide a  
18 penalty; to authorize destruction of feral swine; to define and  
19 redefine terms; to change provisions relating to estrays and  
20 trespass; to harmonize provisions; to repeal the original sections;  
21 and to declare an emergency."

**LEGISLATIVE BILL 51.** Placed on Select File.

**LEGISLATIVE BILL 59.** Placed on Select File.

**LEGISLATIVE BILL 88.** Placed on Select File.

**LEGISLATIVE BILL 118.** Placed on Select File as amended.

E & R amendment to LB 118:

AM7001

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 87-705, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 87-705. (1) A supplier shall be deemed to have good
- 6 cause to terminate, cancel, or not renew a dealer agreement when a
- 7 dealer:
- 8 (a) Has transferred a controlling interest in the
- 9 dealership without the supplier's consent;
- 10 (b) Has made a material misrepresentation to the
- 11 supplier;
- 12 (c) Has filed a voluntary petition in bankruptcy or has
- 13 had an involuntary petition in bankruptcy filed against it which
- 14 has not been discharged within sixty days after the filing, is in
- 15 default under a security agreement in effect with the supplier, or
- 16 is insolvent or in receivership;
- 17 (d) Has been convicted of a crime punishable by a term of
- 18 imprisonment for one year or more;
- 19 (e) Has failed to operate in the normal course of
- 20 business for seven consecutive business days or has terminated
- 21 business;
- 22 (f) Has relocated its place of business without the
- 23 supplier's consent;
- 24 (g) Has consistently engaged in business practices which
- 1 are detrimental to the consumer or supplier by way of excessive
- 2 pricing, misleading advertising, or failure to provide service and
- 3 replacement parts or perform warranty obligations;
- 4 (h) Has inadequately represented the supplier over a
- 5 measured period causing lack of performance in sales or service or
- 6 warranty areas and has failed to achieve market penetration at
- 7 levels consistent with similarly situated dealerships based on
- 8 available record information;
- 9 (i) Has consistently failed to meet building and
- 10 housekeeping requirements or has failed to provide adequate sales,
- 11 service, or parts personnel commensurate with the dealer agreement;
- 12 (j) Has consistently failed to comply with the applicable
- 13 licensing laws pertaining to the products and services being
- 14 represented for the supplier and on the supplier's behalf; or
- 15 (k) Has consistently failed to substantially comply with
- 16 essential and reasonable requirements imposed by the dealer
- 17 agreement, but only if that requirement is also generally imposed
- 18 upon similarly situated dealers in Nebraska.

19 (2) Except when good cause exists as provided in  
 20 subdivisions (1)(a) through (f) of this section, a supplier shall  
 21 give a dealer ninety days' written notice of the supplier's intent  
 22 to terminate, cancel, or not renew a dealer agreement. The notice  
 23 shall state all reasons constituting good cause for termination,  
 24 cancellation, or nonrenewal and shall provide that the dealer has  
 25 sixty days from receipt of the notice in which to cure any claimed  
 26 deficiency, except that the dealer shall have one year from receipt  
 27 of the notice to cure a deficiency described in subdivision (1)(h)  
 1 of this section.

2 (3) If a supplier has contractual authority to approve or  
 3 deny a request for a sale or transfer of a dealership or an equity  
 4 ownership interest in a dealership, the supplier shall neither  
 5 unreasonably deny nor unreasonably withhold its response to such a  
 6 request. The dealer's request shall include reasonable financial  
 7 information, personal background information, character references,  
 8 and work histories for each acquiring person. If a supplier denies  
 9 a request made pursuant to this subsection, the supplier shall  
 10 provide the dealer with a written notice of such denial that states  
 11 the reasons for denial.

12 Sec. 2. Original section 87-705, Reissue Revised  
 13 Statutes of Nebraska, is repealed."

(Signed) Michael Flood, Chairperson

## STANDING COMMITTEE REPORTS

### Government, Military and Veterans Affairs

**LEGISLATIVE BILL 242.** Placed on General File as amended.

Standing Committee amendment to LB 242:

AM0153

1 1. Strike original section 30 and insert the following  
 2 new sections:  
 3 "Sec. 30. Section 49-1480.01, Reissue Revised Statutes  
 4 of Nebraska, is amended to read:  
 5 49-1480.01. (1) The Clerk of the Legislature shall  
 6 collect a fee of ~~one two~~ hundred dollars for an application for  
 7 registration by a lobbyist for each principal if the lobbyist  
 8 receives or will receive compensation for such lobbying. Except as  
 9 provided by section 49-1434, a lobbyist who receives compensation  
 10 shall include an individual who is an employee or member of a  
 11 principal whose duties of employment, office, or membership include  
 12 engaging in lobbying activities.  
 13 (2) A fee of fifteen dollars shall be collected for an  
 14 application by a lobbyist for each principal if the lobbyist is not  
 15 receiving and will not be receiving compensation for such lobbying.  
 16 Any lobbyist who receives compensation who did not anticipate  
 17 receiving such compensation at the time of application for  
 18 registration shall, within five days of the receipt of any  
 19 compensation, file an amended registration form which shall be  
 20 accompanied by an additional fee of one hundred eighty-five dollars

21 for such year.

22 ~~(2)~~ (3) The registration of a lobbyist for each of his or  
 23 her principals may be renewed by the payment of a fee as provided  
 24 by ~~subsection (4)~~ subsections (1) and (2) of this section. Such  
 1 fee shall be paid to the Clerk of the Legislature on or before  
 2 December 31 of each calendar year. The registration of a lobbyist  
 3 for each of his or her principals shall terminate as of the end of  
 4 the calendar year for which the lobbyist registered unless the  
 5 registration is renewed as provided in this section.

6 Sec. 32. Section 49-1482, Reissue Revised Statutes of  
 7 Nebraska, is amended to read:

8 49-1482. The Clerk of the Legislature shall charge a fee  
 9 pursuant to section 49-1480.01 for each application for  
 10 registration by a lobbyist for each principal. Such fees when  
 11 collected shall be remitted to the State Treasurer, Three-fourths  
 12 of such fees shall ~~to~~ be credited ~~equally~~ to the Nebraska  
 13 Accountability and Disclosure Commission Cash Fund and one-fourth  
 14 to the Clerk of the Legislature Cash Fund."

15 2. On page 4, line 12, strike "57" and insert "58".

16 3. On page 35, line 15, after "(viii)" insert  
 17 "extraordinary"; and in line 16 strike "reasonably" and insert  
 18 "directly".

19 4. On page 71, line 12, strike ", 49-1481," and insert  
 20 "to".

21 5. Renumber the remaining sections accordingly.

(Signed) DiAnna R. Schimek, Chairperson

## Revenue

**LEGISLATIVE BILL 248.** Placed on General File as amended.

Standing Committee amendment to LB 248:

AM0147

1 1. Insert the following new sections:

2 "Section 1. Section 39-2510, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 39-2510. No money derived from fees, excises, sales and  
 5 use taxes imposed upon motor vehicles, trailers, and semitrailers  
 6 pursuant to sections 13-319 and 77-27,142, or license fees relating  
 7 to registration, operation, or use of vehicles on the public  
 8 highways, or to fuels used for the propulsion of such vehicles,  
 9 shall be expended for other than cost of administering laws under  
 10 which such money is derived, statutory refunds and adjustments  
 11 provided therein, payment of highway obligations, cost of  
 12 construction, reconstruction, maintenance, and repair of public  
 13 highways and bridges and county, city, township, and village roads,  
 14 streets, and bridges, and all facilities, appurtenances, and  
 15 structures deemed necessary ~~or desirable~~ in connection with such  
 16 highways, bridges, roads, and streets, except that the provisions

17 of this section shall not apply to money derived from the motor  
 18 vehicle operators' license fees or money received from parking  
 19 meter proceeds, fines, and penalties.  
 20 Sec. 2. Section 39-2520, Reissue Revised Statutes of  
 21 Nebraska, is amended to read:  
 22 39-2520. No money derived from fees, excises, sales and  
 23 use taxes imposed upon motor vehicles, trailers, and semitrailers  
 24 pursuant to sections 13-319 and 77-27,142, or license fees relating  
 1 to registration, operation, or use of vehicles on the public  
 2 highways, or to fuels used for the propulsion of such vehicles,  
 3 shall be expended for other than cost of administering laws under  
 4 which such money is derived, statutory refunds and adjustments  
 5 provided therein, payment of highway obligations, cost of  
 6 construction, reconstruction, maintenance, and repair of public  
 7 highways and bridges and county, city, township, and village roads,  
 8 streets, and bridges, ~~offstreet public parking owned by the~~  
 9 ~~municipality~~ and all facilities, appurtenances, and structures  
 10 deemed necessary ~~or desirable~~ in connection with such highways,  
 11 bridges, roads, and streets, except that this section shall not  
 12 apply to money derived from the motor vehicle operators' license  
 13 fees or money received from parking meter proceeds, fines, and  
 14 penalties."  
 15 2. On page 7, line 9, strike "section" and insert  
 16 "sections 39-2510, 39-2520, and"; and in line 10 strike "is" and  
 17 insert "are".  
 18 3. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 155.** Indefinitely postponed.

**LEGISLATIVE BILL 253.** Indefinitely postponed.

**LEGISLATIVE BILL 456.** Indefinitely postponed.

**LEGISLATIVE BILL 555.** Indefinitely postponed.

(Signed) David Landis, Chairperson

## NOTICE OF COMMITTEE HEARINGS

### Banking, Commerce and Insurance

Room 1507

LB 391	Monday, February 7, 2005	1:30 p.m.
LB 465	Monday, February 7, 2005	1:30 p.m.
LB 640	Monday, February 7, 2005	1:30 p.m.
LB 686	Monday, February 7, 2005	1:30 p.m.

(Signed) Mick Mines, Chairperson

### Executive Board

Room 2102

LR 4CA	Thursday, February 17, 2005	12:00 p.m.
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LR 12CA	Thursday, February 17, 2005	12:00 p.m.
LR 13CA	Thursday, February 17, 2005	12:00 p.m.

(Signed) L. Patrick Engel, Chairperson

**Business and Labor**  
Room 1524

LB 462	Monday, February 7, 2005	1:30 p.m.
LB 395	Monday, February 7, 2005	1:30 p.m.
LB 532	Monday, February 7, 2005	1:30 p.m.
LB 219	Monday, February 7, 2005	1:30 p.m.
LB 257	Monday, February 7, 2005	1:30 p.m.
LB 415	Monday, February 7, 2005	1:30 p.m.
LB 436	Monday, February 7, 2005	1:30 p.m.
LB 485	Monday, February 7, 2005	1:30 p.m.

(Signed) Douglas Cunningham, Chairperson

**Education**  
Room 1525

LB 39	Tuesday, February 8, 2005	1:30 p.m.
LB 47	Tuesday, February 8, 2005	1:30 p.m.
LB 352	Tuesday, February 8, 2005	1:30 p.m.
LB 196	Tuesday, February 8, 2005	1:30 p.m.
LR 28CA	Tuesday, February 8, 2005	1:30 p.m.

Tuesday, February 8, 2005	1:30 p.m.
Stephen Lewis - Board of Trustees of the Nebraska State Colleges	
Carter Peterson - Board of Trustees of the Nebraska State Colleges	
Marilyn Harris - Coordinating Commission for Postsecondary Education	
James W. Strand - Coordinating Commission for Postsecondary Education	

(Signed) Ron Raikes, Chairperson

**AMENDMENTS - Print in Journal**

Senator Erdman filed the following amendment to LB 21:  
AM0082

- 1 1. On page 2, strike line 7 and insert "Except as
- 2 provided in subdivision (1)(a) of section 37-1241.06, a person
- 3 younger than"; and in line 10 strike "fourteen" through "but".

Senator Schrock filed the following amendment to LB 121:  
AM0154

- 1 1. Strike the Standing Committee amendments, AM0046.
- 2 2. On page 2, strike lines 13 through 16 and insert the
- 3 following:

- 4 "(2) The commission shall establish a fee of five dollars  
 5 for the discounted permit. The commission may authorize electronic  
 6 issuance of the discounted permit.  
 7 (3)(a) Notwithstanding any provision of section 37-407 to  
 8 the contrary, a Nebraska resident who purchased a big game permit  
 9 and who was deployed out of state with a branch of the United  
 10 States military for the entire season of the hunt and who was  
 11 unable to use the permit shall be entitled to receive a discounted  
 12 permit on a one-time basis upon returning to the state if the  
 13 resident provides to the commission satisfactory proof of purchase  
 14 of the original permit and evidence of the resident's deployment.  
 15 (b) For purposes of this subsection, big game means  
 16 antelope, deer, elk, mountain sheep, and wild turkeys."; and in  
 17 line 17 strike "(3)" and insert "(4)".

Senator Cunningham filed the following amendment to LB 54:  
 AM0161

(Amendments to Standing Committee amendments, AM0029)

- 1 1. On page 1, line 5, strike "The", show as stricken,  
 2 and insert "Except as otherwise provided in subsection (2) of this  
 3 section, the"; reinstate the stricken matter in lines 8 through 10;  
 4 and in lines 18 through 23 strike the new matter and insert the  
 5 following:  
 6 "(2) Any member of a county veterans service committee  
 7 and any personnel, except certain special and clerical help, of a  
 8 county veterans service office who are serving in that capacity as  
 9 of July 1, 2004, and who had not been discharged or otherwise  
 10 separated with a characterization of honorable may continue to  
 11 serve in that capacity until their term of office has expired or  
 12 until the termination of their employment, as the case may be.".

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Howard asked unanimous consent to have her name added as cointroducer to LB 7. No objections. So ordered.

Senator Erdman asked unanimous consent to have his name added as cointroducer to LBs 69 and 70. No objections. So ordered.

Senator Redfield asked unanimous consent to have her name added as cointroducer to LB 232. No objections. So ordered.

Senator Burling asked unanimous consent to have his name added as cointroducer to LB 246. No objections. So ordered.

Senator Pahls asked unanimous consent to have his name added as cointroducer to LB 498. No objections. So ordered.

**ADJOURNMENT**

At 11:57 a.m., on a motion by Senator Pahls, the Legislature adjourned until 9:00 a.m., Tuesday, February 1, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**EIGHTEENTH DAY - FEBRUARY 1, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****EIGHTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, February 1, 2005

**PRAYER**

The prayer was offered by Senator Langemeier.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brown, Kremer, and Wehrbein who were excused; and Senators Bourne, Foley, Mines, and Dw. Pedersen who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventeenth day was approved.

**NOTICE OF COMMITTEE HEARINGS****Banking, Commerce and Insurance**

Room 1507

LB 389	Tuesday, February 8, 2005	1:30 p.m.
LB 545	Tuesday, February 8, 2005	1:30 p.m.
LB 589	Tuesday, February 8, 2005	1:30 p.m.
LB 652	Tuesday, February 8, 2005	1:30 p.m.

LB 568	Monday, February 14, 2005	1:30 p.m.
LB 647	Monday, February 14, 2005	1:30 p.m.
LB 688	Monday, February 14, 2005	1:30 p.m.
LB 693	Monday, February 14, 2005	1:30 p.m.

Monday, February 14, 2005	1:30 p.m.
John Munn - Department of Banking and Finance	

LB 41	Tuesday, February 15, 2005	1:30 p.m.
LB 496	Tuesday, February 15, 2005	1:30 p.m.
LB 564	Tuesday, February 15, 2005	1:30 p.m.

LB 676	Tuesday, February 15, 2005	1:30 p.m.
LB 498	Tuesday, February 22, 2005	1:30 p.m.
LB 546	Tuesday, February 22, 2005	1:30 p.m.
LB 655	Tuesday, February 22, 2005	1:30 p.m.
LB 716	Tuesday, February 22, 2005	1:30 p.m.

(Signed) Mick Mines, Chairperson

**Nebraska Retirement Systems**  
Room 1525

LB 144	Thursday, February 10, 2005	12:15 p.m.
LB 493	Thursday, February 10, 2005	12:15 p.m.
LB 691	Thursday, February 10, 2005	12:15 p.m.
LB 366	Wednesday, February 16, 2005	12:15 p.m.
LB 367	Wednesday, February 16, 2005	12:15 p.m.
LB 364	Tuesday, February 22, 2005	12:15 p.m.
LB 732	Tuesday, February 22, 2005	12:15 p.m.
LB 328	Tuesday, February 22, 2005	12:15 p.m.
LB 165	Wednesday, March 2, 2005	12:15 p.m.
LB 365	Wednesday, March 2, 2005	12:15 p.m.
LB 495	Wednesday, March 2, 2005	12:15 p.m.
LB 215	Friday, March 11, 2005	12:15 p.m.
LB 447	Friday, March 11, 2005	12:15 p.m.
LB 468	Wednesday, March 16, 2005	12:15 p.m.
LB 710	Wednesday, March 16, 2005	12:15 p.m.
LB 711	Wednesday, March 16, 2005	12:15 p.m.

Wednesday, March 23, 2005 12:15 p.m.

Nebraska Investment Council - Annual Report

Nebraska Public Employees Retirement Systems - Annual Report

(Signed) Elaine Stuhr, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 52.** Title read. Considered.

The Standing Committee amendment, AM0021, found on page 322, was adopted with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 6 present and not

voting, and 7 excused and not voting.

**LEGISLATIVE BILL 61.** Title read. Considered.

Senator Burling offered the following amendment:

AM0045

- 1 1. On page 2, line 7, after the first "Services" insert
- 2 ", the Department of Health and Human Services Regulation and
- 3 Licensure."; and in line 28 after the first "Services" insert "
- 4 the Department of Health and Human Services Regulation and
- 5 Licensure.".
- 6 2. On page 3, line 3, after "Services" insert ", the
- 7 Department of Health and Human Services Regulation and Licensure.";
- 8 and in line 18 after the first "Services" insert ", the Department
- 9 of Health and Human Services Regulation and Licensure.".

The Burling amendment was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

## STANDING COMMITTEE REPORT

### Education

**LEGISLATIVE BILL 634.** Placed on General File.

(Signed) Ron Raikes, Chairperson

## NOTICE OF COMMITTEE HEARINGS

### Natural Resources

#### Room 1525

LB 190	Wednesday, February 9, 2005	1:30 p.m.
LB 397	Wednesday, February 9, 2005	1:30 p.m.
LB 722	Wednesday, February 9, 2005	1:30 p.m.
LB 189	Thursday, February 10, 2005	1:30 p.m.
LB 638	Thursday, February 10, 2005	1:30 p.m.
LB 23	Thursday, February 10, 2005	1:30 p.m.
LB 153	Friday, February 11, 2005	1:30 p.m.
LB 154	Friday, February 11, 2005	1:30 p.m.
LB 680	Friday, February 11, 2005	1:30 p.m.
LB 293	Wednesday, February 16, 2005	1:30 p.m.
LB 390	Wednesday, February 16, 2005	1:30 p.m.
LB 120	Wednesday, February 16, 2005	1:30 p.m.

Wednesday, February 16, 2005 1:30 p.m.  
Jerrod Burke - Game and Parks Commission

LB 658	Wednesday, February 23, 2005	1:30 p.m.
LB 191	Wednesday, February 23, 2005	1:30 p.m.
LB 731	Wednesday, February 23, 2005	1:30 p.m.
LB 351	Wednesday, February 23, 2005	1:30 p.m.

LB 552	Thursday, February 24, 2005	1:30 p.m.
LB 553	Thursday, February 24, 2005	1:30 p.m.
LB 708	Thursday, February 24, 2005	1:30 p.m.

(Signed) Ed Schrock, Chairperson

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 72A.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 72, Ninety-ninth Legislature, First Session, 2005.

### **GENERAL FILE**

**LEGISLATIVE BILL 89.** Title read. Considered.

### **SPEAKER BRASHEAR PRESIDING**

Pending.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 29, 30, 31, and 32 were adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 29, 30, 31, and 32.

### **SENATOR CUDABACK PRESIDING**

### **GENERAL FILE**

**LEGISLATIVE BILL 89.** Considered.

Senator Chambers offered the following amendment:  
FA5

On page 2, in line 25, add: "Any person who suffers injury or harm at the hands of such dentist, shall have the right to file an action in district court against the State of Nebraska to recover damages."

## **PRESIDENT SHEEHY PRESIDING**

Senator Chambers withdrew his amendment.

Advanced to E & R for review with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

## **STANDING COMMITTEE REPORTS** **Banking, Commerce and Insurance**

**LEGISLATIVE BILL 450.** Placed on General File.

**LEGISLATIVE BILL 73.** Indefinitely postponed.

**LEGISLATIVE BILL 149.** Indefinitely postponed.

**LEGISLATIVE BILL 310.** Indefinitely postponed.

**LEGISLATIVE BILL 315.** Indefinitely postponed.

**LEGISLATIVE BILL 375.** Indefinitely postponed.

**LEGISLATIVE BILL 491.** Indefinitely postponed.

(Signed) Mick Mines, Chairperson

## **Transportation and Telecommunications**

**LEGISLATIVE BILL 247.** Placed on General File.

**LEGISLATIVE BILL 516.** Placed on General File.

**LEGISLATIVE BILL 742.** Indefinitely postponed.

(Signed) Tom Baker, Chairperson

## **ANNOUNCEMENT**

The Natural Resources Committee designates LB 162 as its priority bill.

## **GENERAL FILE**

**LEGISLATIVE BILL 175.** Title read. Considered.

Senator Chambers offered the following amendment:

FA6

P. 3, starting in line 15 strike "or the purpose of assisting in causing"

Senator Chambers moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

The Chambers amendment was adopted with 27 ayes, 4 nays, 13 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for review with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 176.** Title read. Considered.

### **SENATOR CUDABACK PRESIDING**

Advanced to E & R for review with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 301.** Title read. Considered.

The Standing Committee amendment, AM0005, found on page 324, was adopted with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 13 present and not voting, and 9 excused and not voting.

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 211A.** Introduced by Janssen, 15.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 211, Ninety-ninth Legislature, First Session, 2005.

### **AMENDMENTS - Print in Journal**

Senator Chambers filed the following amendment to LB 20:  
AM0191

(Amendments to E & R amendments, AM7000)

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following sections:
- 3 "Section 1. Section 37-524.01, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 37-524.01. (1) It shall be illegal to knowingly engage
- 6 in, sponsor, instigate, assist, or profit from the release,
- 7 killing, wounding, or attempted killing or wounding of animals of
- 8 the Families Tayassuidae and Suidae for the purpose of sport,
- 9 pleasure, amusement, or production of a trophy. The commission
- 10 shall destroy any feral swine and may authorize any agents,

11 including landowners, to destroy and dispose of any feral swine.

12 (2) For purposes of this section, feral swine means swine  
 13 whose reversion from the domesticated state to a wild state is  
 14 apparent or an otherwise freely roaming swine having no visible  
 15 tags, marking, or characteristics indicating that it is from a  
 16 domestic herd, and reasonable inquiry within the area does not  
 17 identify an owner.

18 (3) Any person violating subsection (1) of this section  
 19 is guilty of a Class II misdemeanor.

20 Sec. 2. The duties and liabilities imposed by sections  
 21 54-401 to 54-415 do not apply in the case of stray or trespass of  
 22 feral swine as defined in section 37-524.01. Feral swine may be  
 23 destroyed as provided in section 37-524.01.

1 Sec. 3. Original section 37-524.01, Reissue Revised

2 Statutes of Nebraska, is repealed.

3 Sec. 4. Since an emergency exists, this act takes effect

4 when passed and approved according to law."

Senator Landis filed the following amendment to LB 15:

AM0194

(Amendments to Standing Committee amendments, AM0030)

- 1 1. Strike section 7.
- 2 2. On page 23, line 2, strike "77-5004,".
- 3 3. Renumber the remaining sections accordingly.

## **STANDING COMMITTEE REPORT**

### **Transportation and Telecommunications**

**LEGISLATIVE BILL 249.** Placed on General File as amended.

Standing Committee amendment to LB 249:

AM0140

- 1 1. On page 6, strike beginning with "It" in line 1
- 2 through "the" in line 2, show as stricken, and insert "The"; and in
- 3 line 2 strike "to", show as stricken, and insert "shall".
- 4 2. On page 7, lines 13 through 16, strike the new
- 5 matter.

(Signed) Tom Baker, Chairperson

## **ANNOUNCEMENT**

The Education Committee designates LB 126 as its priority bill.

## **UNANIMOUS CONSENT - Add Cointroducers**

Senator Kruse asked unanimous consent to have his name added as cointroducer to LB 542. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 654. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 16 high school seniors and sponsors from Cedar Rapids High School; Edward Polochick from Baltimore and Barbara Zach, Bill Smith, Chris Hunt, and Susan Larson-Rodenburg from Lincoln; Kathy and Jason Kuols and former Senator Bob Dickey from Laurel; and Nicole Sedlacek from O'Neill.

The Doctor of the Day was Dr. Paul Paulman from Omaha.

### **ADJOURNMENT**

At 12:03 p.m., on a motion by Senator Preister, the Legislature adjourned until 9:00 a.m., Wednesday, February 2, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

# **NINETEENTH DAY - FEBRUARY 2, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **NINETEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, February 2, 2005

#### **PRAYER**

The prayer was offered by Pastor Doyle Karst, St. John's Lutheran Church, Sterling.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Beutler, Brown, Cunningham, Mines, Dw. Pedersen, Schimek, and Schrock who were excused until they arrive.

#### **CORRECTIONS FOR THE JOURNAL**

The Journal for the eighteenth day was approved.

#### **NOTICE OF COMMITTEE HEARINGS**

##### **Health and Human Services**

Room 1510

LB 331	Thursday, February 17, 2005 (reschedule)	2:00 p.m.
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(Signed) Jim Jensen, Chairperson

##### **Government, Military and Veterans Affairs**

Room 1507

LB 233	Wednesday, February 9, 2005	1:30 p.m.
LB 290	Wednesday, February 9, 2005	1:30 p.m.
LB 401	Wednesday, February 9, 2005	1:30 p.m.
LB 408	Wednesday, February 9, 2005	1:30 p.m.
LB 473	Wednesday, February 9, 2005	1:30 p.m.
LB 477	Wednesday, February 9, 2005	1:30 p.m.

Wednesday, February 9, 2005

1:30 p.m.

Stuart MacTaggart - Department of Aeronautics

Samuel Seever - State Personnel Board

LB 451 Thursday, February 10, 2005

1:30 p.m.

LB 525 Thursday, February 10, 2005

1:30 p.m.

LB 581 Thursday, February 10, 2005

1:30 p.m.

LB 591 Thursday, February 10, 2005

1:30 p.m.

LB 685 Thursday, February 10, 2005

1:30 p.m.

(Signed) DiAnna R. Schimek, Chairperson

### **GENERAL FILE**

**LEGISLATIVE BILL 96.** Title read. Considered.

The Standing Committee amendment, AM0047, found on page 331, was considered.

### **SENATOR LANDIS PRESIDING**

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA7

Amend AM0047

In line 2 strike "four hundred thousand"

### **SENATOR CUDABACK PRESIDING**

Senator Chambers withdrew his amendment.

The Standing Committee amendment lost with 0 ayes, 31 nays, and 18 present and not voting.

Senator Thompson offered the following amendment:

FA8

P. 2 line 7 insert "up to" after of

The Thompson amendment was adopted with 30 ayes, 2 nays, 16 present and not voting, and 1 excused and not voting.

Pending.

### **STANDING COMMITTEE REPORTS**

#### **Natural Resources**

**LEGISLATIVE BILL 8.** Placed on General File.

**LEGISLATIVE BILL 336.** Placed on General File.

**LEGISLATIVE BILL 544.** Placed on General File.

(Signed) Ed Schrock, Chairperson

**NOTICE OF COMMITTEE HEARINGS****Judiciary**  
Room 1113

LB 130	Wednesday, February 9, 2005	1:30 p.m.
LB 410	Wednesday, February 9, 2005	1:30 p.m.
LB 727	Wednesday, February 9, 2005	1:30 p.m.
LB 729	Wednesday, February 9, 2005	1:30 p.m.
LB 755	Wednesday, February 9, 2005	1:30 p.m.
LB 756	Wednesday, February 9, 2005	1:30 p.m.
LB 152	Thursday, February 10, 2005	1:30 p.m.
LB 281	Thursday, February 10, 2005	1:30 p.m.
LB 320	Thursday, February 10, 2005	1:30 p.m.
LB 537	Thursday, February 10, 2005	1:30 p.m.
LB 669	Thursday, February 10, 2005	1:30 p.m.
LB 703	Thursday, February 10, 2005	1:30 p.m.
LB 757	Thursday, February 10, 2005	1:30 p.m.
LB 111	Friday, February 11, 2005	1:30 p.m.
LB 279	Friday, February 11, 2005	1:30 p.m.
LB 348	Friday, February 11, 2005	1:30 p.m.
LB 700	Friday, February 11, 2005	1:30 p.m.
LB 726	Friday, February 11, 2005	1:30 p.m.
LB 758	Friday, February 11, 2005	1:30 p.m.

(Signed) Patrick J. Bourne, Chairperson

**GENERAL FILE****LEGISLATIVE BILL 96.** Senator Janssen offered the following amendment:

FA9

Page 2 in line 27, put a period after "year" and strike and show as stricken "and the amount of tuition credits granted shall not exceed nine hundred thousand dollars during any fiscal year"

The Janssen amendment was adopted with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

Senator Chambers offered the following amendment:

FA10

On page 2 in line 5, after "college" strike "or any independent, not-for-profit, regionally accredited college or university in this state."

Senator Chambers moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 16:

Aguilar	Cudaback	Pahls	Price
Baker	Fischer	Pedersen, Dw.	Raikes
Beutler	Hudkins	Pederson, D.	Schimek
Chambers	Johnson	Preister	Stuthman

Voting in the negative, 27:

Bourne	Engel	Howard	Landis	Smith
Brashear	Erdman	Janssen	Langemeier	Stuhr
Byars	Flood	Jensen	McDonald	Synowiecki
Combs	Foley	Kopplin	Mines	
Connealy	Friend	Kremer	Redfield	
Cunningham	Heidemann	Kruse	Schrock	

Present and not voting, 3:

Burling	Louden	Thompson
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Excused and not voting, 3:

Brown	Cornett	Wehrbein
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The Chambers amendment lost with 16 ayes, 27 nays, 3 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Janssen moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Chambers requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 37:

Aguilar	Engel	Hudkins	Louden	Schimek
Baker	Erdman	Janssen	McDonald	Schrock
Beutler	Fischer	Johnson	Mines	Smith
Burling	Flood	Kopplin	Pahls	Synowiecki
Byars	Foley	Kremer	Pedersen, Dw.	Thompson
Combs	Friend	Kruse	Preister	
Connealy	Heidemann	Landis	Price	
Cunningham	Howard	Langemeier	Redfield	

Voting in the negative, 3:

Bourne            Chambers            Raikes

Present and not voting, 3:

Cudaback            Pederson, D.    Stuthman

Excused and not voting, 6:

Brashear            Cornett            Stuhr  
Brown                Jensen            Wehrbein

Advanced to E & R for review with 37 ayes, 3 nays, 3 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

### **STANDING COMMITTEE REPORTS** **Transportation and Telecommunications**

**LEGISLATIVE BILL 70.** Placed on General File.

**LEGISLATIVE BILL 79.** Placed on General File as amended.  
Standing Committee amendment to LB 79:  
AM0186

1    1. On page 2, after line 17, insert the following new  
2 subsection:  
3    "(3) An interested party may object to an action taken  
4 under subsection (2) of this section only if a written request is  
5 submitted to the Department of Roads by a professional engineer  
6 licensed to practice in the State of Nebraska. The engineer shall  
7 state in writing that the engineer is familiar with the  
8 requirements in this section and with all relevant aspects of the  
9 railroad crossing. The engineer shall also provide a detailed  
10 explanation of why subsection (2) of this section should not apply  
11 to the railroad crossing in question and a statement that the  
12 railroad crossing corridor has been examined by the engineer and  
13 the engineer believes that the railroad crossing will be safe as  
14 designed."

**LEGISLATIVE BILL 67.** Indefinitely postponed.

**LEGISLATIVE BILL 156.** Indefinitely postponed.

(Signed) Tom Baker, Chairperson

### **Business and Labor**

**LEGISLATIVE BILL 99.** Placed on General File as amended.  
Standing Committee amendment to LB 99:

## AM0203

- 1 1. On page 3, line 2, after "created" insert "consisting
- 2 of ten members".
- 3 2. On page 7, after line 21 insert:
- 4 "(3) The act applies to conveyances in private residences
- 5 at the time of installation, and such conveyances are subject to
- 6 inspection at installation and are not subject to periodic
- 7 inspections.".
- 8 3. On page 8, strike lines 26 through 28.
- 9 4. On page 9, line 1, strike "(18)" and insert "(17)";
- 10 and in line 2 after "mills" insert "; and
- 11 (18) Dock levelators".
- 12 5. On page 10, line 23, strike "A" and insert "Neither
- 13 a"; and in line 24 strike "is not" and insert "nor a licensed
- 14 elevator mechanic is".
- 15 6. On page 14, line 13, after "any" insert "public"; and
- 16 in lines 13 and 14 strike ", public or private," and show as
- 17 stricken.
- 18 7. On page 18, line 27, strike "licensee" and insert
- 19 "individual holding the elevator mechanic license".
- 20 8. On page 22, line 10, after the period insert "The
- 21 commissioner or state elevator inspector shall keep a record of
- 22 each request for an investigation received under this section for
- 23 three years after such request is made.".

**LEGISLATIVE BILL 122.** Placed on General File as amended.  
Standing Committee amendment to LB 122:

## AM0204

- 1 1. On page 3, strike lines 15 through 28 and insert:
- 2 "(i) Unfired pressure vessels (i) not exceeding a maximum
- 3 allowable working pressure of five hundred pounds per square inch,
- 4 (ii) that contain carbon dioxide, helium, oxygen, nitrogen, argon,
- 5 hydrofluorocarbon refrigerant, or any other nonflammable gas
- 6 determined by the commissioner not to be a risk to the public,
- 7 (iii) that are manufactured and repaired in accordance with
- 8 applicable American Society of Mechanical Engineers standards, and
- 9 (iv) that are installed in accordance with the manufacturer's
- 10 specifications.".
- 11 2. On page 4, strike lines 1 through 4.

(Signed) Douglas Cunningham, Chairperson

### Transportation and Telecommunications

**LEGISLATIVE BILL 295.** Placed on General File.

**LEGISLATIVE BILL 471.** Placed on General File.

**LEGISLATIVE BILL 251.** Placed on General File as amended.  
Standing Committee amendment to LB 251:

AM0187

- 1 1. On page 2, line 12, after the period insert "For
- 2 purposes of this section, place of secure safekeeping means a place
- 3 off the traveled portion of the highway that can accommodate the
- 4 parking of such vehicles in order for the vehicles to be (1)
- 5 repaired or (2) dismantled and operated in compliance with
- 6 subdivision (1)(b) of section 60-6,290 and subsections (2) and (3)
- 7 of section 60-6,294.".

(Signed) Tom Baker, Chairperson

**AMENDMENT - Print in Journal**Senator Landis filed the following amendment to LB 216:

AM0216

- 1 1. On page 50, line 26, after "agent" insert "in
- 2 accordance with section 3504 of the Internal Revenue Code of 1986,
- 3 as amended.".

**RESOLUTIONS****LEGISLATIVE RESOLUTION 35.** Introduced by Byars, 30.

WHEREAS, seventy-six and three tenths percent of Nebraska's population have less than a college education; and

WHEREAS, a large majority of Nebraska's people need developmental course work, tutoring, and counseling to succeed in secondary school and in postsecondary freshman-level courses; and

WHEREAS, these people are one or more of the following: Low-income, children of parents with no postsecondary experience, nontraditional students, or disabled or culturally disadvantaged; and

WHEREAS, the twenty-nine TRIO Programs in Nebraska, located on the campuses of Southeast Community College, University of Nebraska at Lincoln, Doane College, University of Nebraska at Omaha, University of Nebraska at Kearney, Central Community College, Chadron State College, Creighton University, Metropolitan Community College, Nebraska Indian Community College, Peru State College, Wayne State College, Western Nebraska Community College, and Applied Information Management Institute; and

WHEREAS, these twenty-nine programs, with a combined budget of \$8,011,315 of federal funding for educational opportunity services, have provided support services that enhance the prospects of educational excellence for those who are disadvantaged and will serve approximately seven thousand six hundred ninety students during the 2004-05 program years.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That February 26, 2005, shall be known as National TRIO Day.
2. That a copy of this resolution be sent to the Director of the TRIO

Program on the Southeast Community College campus in Beatrice, Nebraska.

Laid over.

**LEGISLATIVE RESOLUTION 36.** Introduced by Synowiecki, 7.

WHEREAS, Margaret Engstrom of Omaha, Nebraska, will celebrate her ninetieth birthday on February 18, 2005; and

WHEREAS, Ms. Engstrom has lived in the same house at 4502 South 14th Street in Omaha for fifty-four years; and

WHEREAS, Ms. Engstrom raised seven wonderful children, who proudly carry on her spirit of volunteerism; and

WHEREAS, Ms. Engstrom continues to serve her family and community every day through acts of kindness.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature of the State of Nebraska wishes Ms. Margaret Engstrom a very happy ninetieth birthday.

2. That a copy of this resolution be provided to Ms. Engstrom.

Laid over.

**LEGISLATIVE RESOLUTION 37.** Introduced by Synowiecki, 7.

WHEREAS, Yolanda Bernhardt of Omaha, Nebraska, will celebrate her one hundred and sixth birthday on February 14, 2005; and

WHEREAS, Ms. Bernhardt was born in Hungary, as Jolan Ruisz, and was the youngest of six children; and

WHEREAS, Ms. Bernhardt was a Hungarian elementary school teacher and studied art in Europe before coming to Omaha in 1926; and

WHEREAS, Ms. Bernhardt married Joseph Bernhardt in 1942 and resided on South 10th Street in Omaha until she was ninety-nine years old; and

WHEREAS, Ms. Bernhardt is a magnificent artist, who sold many paintings out of her painting studio in her garage; and

WHEREAS, Ms. Bernhardt currently resides at St. Joseph Villa at 2305 South 10th Street in Omaha, Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature of the State of Nebraska wishes Ms. Yolanda Bernhardt a very happy one hundred and sixth birthday.

2. That a copy of this resolution be provided to Ms. Bernhardt.

Laid over.

**ANNOUNCEMENT**

The Nebraska Retirement Systems Committee designates LB 503 as its priority bill.

**UNANIMOUS CONSENT - Add Cointroducers**

Senators Foley and Dw. Pedersen asked unanimous consent to have their names added as cointroducers to LB 64. No objections. So ordered.

Senator Combs asked unanimous consent to have her name added as cointroducer to LB 332. No objections. So ordered.

Senator Jensen asked unanimous consent to have his name added as cointroducer to LB 542. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Senator Louden's wife, SharonAnn Louden, and Harry and Lee Ann Merrihew from Ashby; Shirley Petsche from Petersburg; and 35 seventh grade students and teacher from Cross County Community Schools, Benedict.

**ADJOURNMENT**

At 12:00 p.m., on a motion by Senator Aguilar, the Legislature adjourned until 9:00 a.m., Thursday, February 3, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**TWENTIETH DAY - FEBRUARY 3, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**TWENTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, February 3, 2005

**PRAYER**

The prayer was offered by Senator Kruse.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Beutler, Brown, Byars, Combs, and McDonald who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the nineteenth day was approved.

**STANDING COMMITTEE REPORTS**

**Judiciary**

**LEGISLATIVE BILL 62.** Placed on General File.

**LEGISLATIVE BILL 105.** Placed on General File.

**LEGISLATIVE BILL 110.** Placed on General File.

**LEGISLATIVE BILL 360.** Placed on General File.

**LEGISLATIVE BILL 362.** Placed on General File.

**LEGISLATIVE BILL 363.** Placed on General File.

**LEGISLATIVE BILL 402.** Placed on General File.

**LEGISLATIVE BILL 419.** Placed on General File.

**LEGISLATIVE BILL 648.** Placed on General File.

**LEGISLATIVE BILL 649.** Placed on General File.

**LEGISLATIVE BILL 650.** Placed on General File.

**LEGISLATIVE BILL 115.** Placed on General File as amended.

Standing Committee amendment to LB 115:

AM0107

- 1 1. On page 3, line 9, strike "or the right to appeal";
- 2 strike beginning with "in" in line 12 through "crime" in line 13
- 3 and insert "for a term of more than one year or a crime committed

4 outside of Nebraska"; strike "one year or more" and insert "more  
5 than one year"; and in line 18 strike the new matter.

**LEGISLATIVE BILL 151.** Placed on General File as amended.

Standing Committee amendment to LB 151:

AM0023

1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 8-1,131, Revised Statutes  
4 Supplement, 2004, is amended to read:  
5 8-1,131. (1) All banks chartered under the laws of  
6 Nebraska are qualified to act as trustee or custodian within the  
7 provisions of the federal Self-Employed Individuals Tax Retirement  
8 Act of 1962, as amended, or under the terms and provisions of  
9 section 408(a) of the Internal Revenue Code, if the provisions of  
10 such retirement plan require the funds of such trust or  
11 custodianship to be invested exclusively in shares or accounts in  
12 the bank or in other banks. If any such retirement plan, within  
13 the judgment of the bank, constitutes a qualified plan under the  
14 federal Self-Employed Individuals Tax Retirement Act of 1962, or  
15 under the terms and provisions of section 408(a) of the Internal  
16 Revenue Code and the regulations promulgated thereunder at the time  
17 the trust was established and accepted by the bank, and is  
18 subsequently determined not to be such a qualified plan or  
19 subsequently ceases to be such a qualified plan, in whole or in  
20 part, the bank may continue to act as trustee of any deposits  
21 theretofore made under such plan and to dispose of the same in  
22 accordance with the directions of the member and beneficiaries  
23 thereof. No bank, in respect to savings made under this  
24 subsection, shall be required to segregate such savings from other  
1 liabilities of the bank. The bank shall keep appropriate records  
2 showing in proper detail all transactions engaged in under the  
3 authority of this subsection.  
4 (2)(a) All banks chartered under the laws of Nebraska are  
5 qualified to act as trustee or custodian of a medical savings  
6 account created within the provisions of section 220 of the  
7 Internal Revenue Code and a health savings account created within  
8 the provisions of section 223 of the Internal Revenue Code. If any  
9 such medical savings account or health savings account, within the  
10 judgment of the bank, constitutes a medical savings account under  
11 section 220 of the Internal Revenue Code or a health savings  
12 account under section 223 of the Internal Revenue Code and the  
13 regulations promulgated thereunder at the time the trust was  
14 established and accepted by the bank, and is subsequently  
15 determined not to be such a medical savings account or health  
16 savings account, in whole or in part, the bank may continue to act  
17 as trustee of any deposits theretofore made under such plan and to  
18 dispose of the same in accordance with the directions of the  
19 account holder. No bank, in respect to savings made under this

20 subsection, shall be required to segregate such savings from other  
21 liabilities of the bank. The bank shall keep appropriate records  
22 showing in proper detail all transactions engaged in under the  
23 authority of this subsection.

24 (b) Except for judgments against the medical savings  
25 account holder or health savings account holder or his or her  
26 dependents for qualified medical expenses as defined under section  
27 223(d)(2) of the Internal Revenue Code, funds credited to a medical  
1 savings account or health savings account are not susceptible to  
2 levy, execution, judgment, or other operation of law, garnishment,  
3 or other judicial enforcement and are not an asset or property of  
4 the account holder for purposes of bankruptcy law.

5 Sec. 2. Section 21-1799, Revised Statutes Supplement,  
6 2004, is amended to read:

7 21-1799. (1) All credit unions chartered under the laws  
8 of Nebraska shall be qualified to act as a trustee or custodian  
9 within the provisions of the federal Self-Employed Individuals Tax  
10 Retirement Act of 1962 or under the terms and provisions of section  
11 408(a) of the Internal Revenue Code if the provisions of such  
12 retirement plan require the funds of such trust or custodianship to  
13 be invested exclusively in shares or accounts in the credit union  
14 or other credit unions.

15 (2) All credit unions chartered under the laws of  
16 Nebraska are qualified to act as trustee or custodian of a medical  
17 savings account created within the provisions of section 220 of the  
18 Internal Revenue Code and a health savings account created within  
19 the provisions of section 223 of the Internal Revenue Code. Except  
20 for judgments against the medical savings account holder or health  
21 savings account holder or his or her dependents for qualified  
22 medical expenses as defined under section 223(d)(2) of the Internal  
23 Revenue Code, funds credited to a medical savings account or health  
24 savings account are not susceptible to levy, execution, judgment,  
25 or other operation of law, garnishment, or other judicial  
26 enforcement and are not an asset or property of the account holder  
27 for purposes of bankruptcy law.

1 (3) All credit unions chartered under the laws of  
2 Nebraska are qualified to act as trustee or custodian of an  
3 education individual retirement account created within the  
4 provisions of section 530 of the Internal Revenue Code.

5 (4) All credit unions chartered under the laws of  
6 Nebraska are qualified to act as trustee or custodian of a Roth IRA  
7 created within the provisions of section 408A of the Internal  
8 Revenue Code.

9 (5) If any such plan, in the judgment of the credit  
10 union, constitutes a qualified plan under the federal Self-Employed  
11 Individuals Tax Retirement Act of 1962, or under the terms and  
12 provisions of section 220, 408(a), 408A, or 530 of the Internal  
13 Revenue Code, and the regulations promulgated thereunder at the  
14 time the trust was established and accepted by the credit union is

15 subsequently determined not to be such a qualified plan, or  
 16 subsequently ceases to be such a qualified plan, in whole or in  
 17 part, the credit union may continue to act as trustee of any  
 18 deposits which have been made under such plan and to dispose of  
 19 such deposits in accordance with the directions of the member and  
 20 beneficiaries thereof.

21 (6) No credit union, with respect to savings made under  
 22 this section, shall be required to segregate such savings from  
 23 other assets of the credit union, but the credit union shall keep  
 24 appropriate records showing in detail all transactions engaged in  
 25 pursuant to this section.

26 Sec. 3. Original sections 8-1,131 and 21-1799, Revised  
 27 Statutes Supplement, 2004, are repealed."

(Signed) Patrick J. Bourne, Chairperson

### Transportation and Telecommunications

**LEGISLATIVE BILL 597.** Placed on General File as amended.  
 Standing Committee amendment to LB 597:

AM0210

- 1 1. On page 14, lines 15 and 17; and page 15, line 7,  
 2 after "renewed," insert "or" and strike ", or reissued".
- 3 2. On page 14, line 26; and page 15, line 19, strike "or  
 4 renewal" and insert ", renewal, or transferred".
- 5 3. On page 15, line 8, after "determination" insert "of  
 6 no security threat"; strike beginning with "that" in line 10  
 7 through "endorsement" in line 11; and in line 18 after  
 8 "Administration" insert "or its agent".
- 9 4. On page 16, lines 1 and 4, after "Administration"  
 10 insert "or its agent"; in line 8 strike "issuance" and insert "a  
 11 determination of no security threat"; and in line 19 after "added"  
 12 insert an underscored comma.
- 13 5. On page 17, line 1, after "Administration" insert "of  
 14 the United States Department of Homeland Security or its agent";  
 15 and strike beginning with "Assistant" in line 3 through "for" in  
 16 line 4 and insert "designee of the".

(Signed) Tom Baker, Chairperson

### COMMUNICATION

Received petitions from the Douglas County Board of Commissioners  
 adopted on February 1, 2005.

### GENERAL FILE

**LEGISLATIVE BILL 54.** Title read. Considered.

The Standing Committee amendment, AM0029, found on page 330, was considered.

Senator Cunningham renewed his pending amendment, AM0161, found on page 403, to the Standing Committee amendment.

Senator Cunningham withdrew his amendment.

The Standing Committee amendment was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 16.** Title read. Considered.

Advanced to E & R for review with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 17.** Title read. Considered.

Advanced to E & R for review with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 15.** Title read. Considered.

The Standing Committee amendment, AM0030, printed separately and referred to on page 331, was considered.

Senator Landis renewed his pending amendment, AM0194, found on page 411, to the Standing Committee amendment.

The Landis amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 18.** Title read. Considered.

The Standing Committee amendment, AM0032, found on page 331, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 263.** Title read. Considered.

The Standing Committee amendment, AM0033, found on page 331, lost with 2 ayes, 21 nays, 18 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 283.** Title read. Considered.

The Standing Committee amendment, AM0031, found on page 332, was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 329.** Title read. Considered.**SENATOR JANSSEN PRESIDING****SENATOR CUDABACK PRESIDING**

Advanced to E & R for review with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

**AMENDMENT - Print in Journal**

Senator Engel filed the following amendment to LB 205:  
AM0190

- 1 1. Strike the original section and insert the following
- 2 new sections:
- 3 "Section 1. Section 83-1212, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 83-1212. (1) If a developmental disability region does
- 6 not meet the requirements of section 83-1217, all ~~furniture,~~
- 7 ~~equipment, books, files, and~~ records, ~~and other property~~ used by
- 8 the developmental disability region for the administration of
- 9 services to persons with developmental disabilities shall be
- 10 transferred and delivered to the department. All real and personal
- 11 property used by the developmental disability region that is
- 12 purchased or maintained with state funds shall be transferred and
- 13 delivered to the department. Such property that is not purchased
- 14 or maintained with state funds shall not be transferred to the
- 15 department.
- 16 (2) If a developmental disability region meets the
- 17 requirements of section 83-1217, the developmental disability

18 region shall provide suitable office space, furniture, office  
19 equipment, and access to files and records to the department for  
20 purposes of carrying out the Developmental Disabilities Services  
21 Act.

22 Sec. 2. Original section 83-1212, Reissue Revised  
23 Statutes of Nebraska, is repealed."

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 28A.** Introduced by Connealy, 16.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 28, Ninety-ninth Legislature, First Session, 2005.

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Redfield asked unanimous consent to have her name added as cointroducer to LBs 26, 63, and 65. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Scottsbluff/Gering United Chamber, Leadership Scottsbluff, Alliance Chamber, and Box Butte Leadership; 48 fourth grade students and teachers from Longfellow Elementary, Hastings; and Marlan Ferguson and Denise McGovern from Grand Island.

### **ADJOURNMENT**

At 11:44 a.m., on a motion by Senator Connealy, the Legislature adjourned until 11:00 a.m., Friday, February 4, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**TWENTY-FIRST DAY - FEBRUARY 4, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**TWENTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, February 4, 2005

**PRAYER**

The prayer was offered by Senator Kruse.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 11:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Combs, McDonald, and Thompson who were excused; and Senators Aguilar, Brown, Byars, Connealy, Heidemann, Jensen, Mines, Dw. Pedersen, Price, Smith, and Stuthman who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twentieth day was approved.

**SELECT COMMITTEE REPORTS**

**Enrollment and Review**

**LEGISLATIVE BILL 119.** Placed on Select File as amended.

E & R amendment to LB 119:

AM7006

- 1 1. On page 1, line 3, strike "44-789,"; in line 5 strike
- 2 "44-5418,"; in line 10 strike "bone or joint treatment and"; and in
- 3 line 12 strike ", investments, and utilization review" and insert
- 4 "and investments".
- 5 2. On page 2, line 3, after "provide" insert "and
- 6 eliminate"; in line 4 strike "insolvency, reinsurance," and insert
- 7 "reinsurance"; and in line 6 after the semicolon insert "to provide
- 8 requirements for mandatory coverage and services;".
- 9 3. On page 9, line 5; page 10, lines 21 and 27; page 71,
- 10 line 14; page 76, line 5; page 80, line 18; and page 81, lines 2
- 11 and 3, strike "31 to 36" and insert "29 to 34".
- 12 4. On page 13, line 27, after "the" insert "individual
- 13 or".

- 14 5. On page 15, line 1, strike "group" and show as  
15 stricken.
- 16 6. On page 16, line 3, after the first comma insert "as  
17 such chapter existed".
- 18 7. On page 25, line 7, after "a" insert "clearing"; and  
19 in line 23 strike "act" and insert "Insurers Investment Act".
- 20 8. On page 26, line 8, strike "this act" and insert "the  
21 Insurers Investment Act"; and in line 19 strike "Equity" and insert  
22 "Entry".
- 23 9. On page 27, lines 10 through 16, renumber  
24 subdivisions (13) and (14) as subdivisions (14) and (13),  
1 respectively.
- 2 10. On page 29, line 6, after the second "corporation"  
3 insert an underscored comma.
- 4 11. On page 35, line 16, after "thereof" insert an  
5 underscored comma.
- 6 12. On page 52, lines 6 and 13, strike "34" and insert  
7 "32".
- 8 13. On page 53, line 17, strike "26" and insert "24".
- 9 14. On page 58, line 22, strike "the" and insert "such".
- 10 15. On page 59, line 2, after "intermediate" insert  
11 "stock".
- 12 16. On page 73, line 23, strike "statute" and insert  
13 "section".
- 14 17. On page 76, line 23, and page 79, line 8, strike the  
15 semicolon and insert an underscored comma.
- 16 18. On page 79, line 1, strike "32" and insert "30".
- 17 19. On page 80, line 4, strike "33" and insert "31" and  
18 strike "U.S." and insert "United States"; in line 6 after "or"  
19 insert an underscored comma; and in line 12 strike "director" and  
20 insert "Director of Insurance".
- 21 20. On page 101, line 15, strike "compact" and insert  
22 "Act".
- 23 21. On page 110, line 6, strike "40 to 42" and insert  
24 "38 to 40".
- 25 22. On page 111, line 27, strike "director" and insert  
26 "Director of Insurance".
- 27 23. On page 112, line 2, strike "Director of Insurance"  
1 and insert "director".
- 2 24. On page 113, line 4, after the semicolon insert  
3 "and".

**LEGISLATIVE BILL 33.** Placed on Select File.

**LEGISLATIVE BILL 21.** Placed on Select File as amended.

E & R amendment to LB 21:

AM7002

- 1 1. On page 1, line 3, after "on" insert "and provide  
2 requirements for"; and in line 4 strike "and" and after "section"

3 insert "; and to declare an emergency".

**LEGISLATIVE BILL 261.** Placed on Select File.

**LEGISLATIVE BILL 169.** Placed on Select File as amended.

E & R amendment to LB 169:

AM7003

- 1 1. In the Standing Committee amendment, AM0013, on page
- 2 1, line 19, after "warrants" insert an underscored comma.

**LEGISLATIVE BILL 52.** Placed on Select File as amended.

E & R amendment to LB 52:

AM7007

- 1 1. On page 1, line 1, after the comma insert
- 2 "75-903.02,"; in line 3 after "88-528" insert ", 88-528.01,"; and
- 3 in line 4 strike "2003" and insert "2004".
- 4 2. On page 5, line 13; and page 6, line 18, strike
- 5 "2003" and insert "2004".
- 6 3. On page 7, line 9, strike the comma, show as
- 7 stricken, and insert "or", strike the first "or", show as stricken,
- 8 and insert an underscored comma, after "lessee" insert an
- 9 underscored comma, and after "employee" insert "thereof"; and in
- 10 line 11 strike the first comma and insert "or" and after the last
- 11 comma insert "or".

**LEGISLATIVE BILL 61.** Placed on Select File.

**LEGISLATIVE BILL 89.** Placed on Select File.

**LEGISLATIVE BILL 175.** Placed on Select File as amended.

E & R amendment to LB 175:

AM7004

- 1 1. In lieu of the Chambers amendment, FA6, on page 3,
- 2 line 15, strike beginning with the first comma through the second
- 3 comma and show as stricken.

**LEGISLATIVE BILL 176.** Placed on Select File.

**LEGISLATIVE BILL 301.** Placed on Select File as amended.

E & R amendment to LB 301:

AM7008

- 1 1. Strike original section 67 and insert the following
- 2 new section:
- 3 "Sec. 75. Sections 8, 12 to 20, 30 to 40, 44 to 51, 53
- 4 to 64, 70 to 74, and 77 of this act become operative on July 1,
- 5 2005. Sections 1 to 7, 9 to 11, 21 to 29, 41 to 43, 52, 67 to 69,
- 6 and 76 of this act become operative three calendar months after the
- 7 adjournment of this legislative session. The other sections of
- 8 this act become operative on their effective date."
- 9 2. On page 1, line 8, after the first comma insert

- 10 "71-4737 to 71-4744," and strike "71-5653,"; and in line 11 after  
 11 the first comma insert "71-5653,".  
 12 3. On page 2, strike beginning with "Women's" in line 1  
 13 through the semicolon in line 3 and insert "immunodeficiency  
 14 syndrome program, the Women's Health Initiative of Nebraska, the  
 15 Infant Hearing Act, the Office of Rural Health, the tobacco-related  
 16 public health program, and the Native American public health  
 17 program;".  
 18 4. On page 23, line 17, before "secure" insert "shall".  
 19 5. On page 66, line 22; and page 67, line 14, reinstate  
 20 the stricken matter.  
 21 6. On page 75, line 26, after the second comma insert  
 22 "71-4737 to 71-4744," and strike "71-5653,"; and in line 28 strike  
 23 "section" and insert "sections 71-5653 and".

**LEGISLATIVE BILL 96.** Placed on Select File as amended.

E & R amendment to LB 96:

AM7005

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 85-505, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 85-505. Any member of the Nebraska National Guard who
- 6 enrolls in any state-supported university, college, or community
- 7 college or any independent, not-for-profit, regionally accredited
- 8 college or university in this state shall be entitled to a credit
- 9 of ~~seventy-five~~ up to one hundred percent of the resident tuition
- 10 charges of such school, except that any member who attends an
- 11 independent, not-for-profit, regionally accredited college or
- 12 university in this state shall receive a credit in an amount no
- 13 higher than that person would receive if he or she attended the
- 14 University of Nebraska-Lincoln. Such entitlement shall be for a
- 15 period of ten years from the date of the member's initial
- 16 membership so long as the member maintains satisfactory performance
- 17 with the guard and pursues his or her course of study in such
- 18 institution in a manner which satisfies the normal requirements of
- 19 the institution. ~~Any member entitled to a credit of seventy-five~~
- 20 ~~percent of resident tuition charges and enrolled in the tuition~~
- 21 ~~credit program as of October 1, 1992, shall on and after May 27,~~
- 22 ~~1999, be entitled to the credit at such rate until completion of~~
- 23 ~~the educational program in which he or she is enrolled on October~~
- 24 ~~1, 1992, so long as the member maintains satisfactory performance~~
- 25 ~~with the guard and pursues his or her course of study in such~~
- 26 ~~institution in a manner which satisfies the normal requirements of~~
- 27 ~~the institution.~~
- 28 4 The number of individuals granted tuition credit shall
- 29 not exceed the number specified in section 85-505.01 during any
- 30 fiscal year, ~~and the amount of tuition credits granted shall not~~
- 31 ~~exceed nine hundred thousand dollars during any fiscal year. When~~

8 determining to whom such tuition credit shall be awarded, priority  
 9 shall be given to those individuals who have previously received  
 10 tuition credits while a National Guard member, and the Nebraska  
 11 National Guard shall apply those program qualifications and  
 12 limitations consistent with efficient and effective program  
 13 management as determined by the Adjutant General.  
 14 Sec. 2. Original section 85-505, Reissue Revised  
 15 Statutes of Nebraska, is repealed."

(Signed) Michael Flood, Chairperson

**STANDING COMMITTEE REPORT**  
**Transportation and Telecommunications**

**LEGISLATIVE BILL 274.** Placed on General File as amended.

(Standing Committee amendment, AM0244, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Tom Baker, Chairperson

**NOTICE OF COMMITTEE HEARINGS**  
**Transportation and Telecommunications**  
 Room 1113

LB 639	Monday, February 14, 2005	1:30 p.m.
LB 202	Monday, February 14, 2005	1:30 p.m.
LB 63	Monday, February 14, 2005	1:30 p.m.
LB 185	Monday, February 14, 2005	1:30 p.m.
LB 106	Monday, February 14, 2005	1:30 p.m.
LB 715	Tuesday, February 15, 2005	1:30 p.m.
LB 343	Tuesday, February 15, 2005	1:30 p.m.

(Signed) Tom Baker, Chairperson

**Business and Labor**  
 Room 1524

LB 166	Monday, February 14, 2005	1:30 p.m.
LB 237	Monday, February 14, 2005	1:30 p.m.
LB 433	Monday, February 14, 2005	1:30 p.m.
LB 524	Monday, February 14, 2005	1:30 p.m.
LB 434	Monday, February 14, 2005	1:30 p.m.
LB 435	Monday, February 14, 2005	1:30 p.m.
LB 554	Monday, February 14, 2005	1:30 p.m.

(Signed) Douglas Cunningham, Chairperson

**STANDING COMMITTEE REPORT**  
**Natural Resources**

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

James J. Ziebarth - Game and Parks Commission

VOTE: Aye: Senators Hudkins, Kopplin, Kremer, Loudon, McDonald, Schrock, Smith, Stuhr. Nay: None. Absent: None.

(Signed) Ed Schrock, Chairperson

**MESSAGE FROM THE GOVERNOR**

February 3, 2005

President, Speaker Brashear,  
Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

The following individual has been appointed to the Nebraska Accountability and Disclosure Commission in accordance to statute 49-14,112 and the names provided by the Legislature:

Judy Schweikart, 680 North 58th Street, Omaha NE 68132, 402-566-4102 (h) or 402-346-6000 (w)

Sincerely,  
(Signed) Dave Heineman  
Governor

web/

**COMMUNICATION**

Received a copy of House Concurrent Resolution No. 36 from the State of Louisiana to urge and request the state legislatures in the United States to oppose legislation to participate in the Interstate Insurance Product Regulation Compact.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of February 3, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Amack, Angela K.  
South Platte United Chambers of Commerce

American Communications Group, Inc.  
Yes for Smoke Free Air Committee

Anania, Laura  
Great Plains Paralyzed Veterans of America

Bromm, Curt  
City of La Vista

Campbell, Mary M./Campbell & Associates  
Nurse Executives, Nebraska Organization of (Withdrawn 01/27/2005)

Cavanaugh Law Firm, PC, LLO  
National Confectioners Association

Dierks, Merton L.  
Livestock Markets Association, Nebraska  
Save Boyd County

Goc, John J.  
Keno Operators Association, Nebraska  
Operational Services, LLC

Hill, Denise A.  
Berkshire Hathaway Homestate Companies

Jensen, Ronald L.  
National Rifle Association Institute for Legislative Action

Kissel/Erickson & Sederstrom Associates, LLC  
WebMD

Kleinschmit, Martin  
Center for Rural Affairs

McGuire, Mark D.  
Crow Butte Resources, Inc.

Overcash, James A.  
Electrical Contractors Association, National

Parker, David R.  
Great West Casualty Company

Ruth Mueller Robak LLC  
Cingular Wireless LLC

Vickers, Tom  
Nurse Executives, Nebraska Organization of

## REPORTS

The following reports were received by the Legislature:

### **Geographic Information Systems (GIS) Steering Committee**

Annual Report and Strategic Plan Update of Building a Spatial Data  
Infrastructure for Nebraska

### **Health and Human Services System**

State Disbursement Unit Report

### **Investment Finance Authority**

2002 Series A, B, C, D, E and F Community Development Loan Notes  
(City of Lincoln Program-2002) Quarterly Report

Drinking Water State Revolving Fund Revenue Bonds Series 2004 A

### **Revenue, Department of**

Charitable Gaming Division 2004 Annual Report

## GENERAL FILE

**LEGISLATIVE BILL 383.** Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 7 present and not voting, and 14 excused and not voting.

**LEGISLATIVE BILL 216.** Title read. Considered.

The Standing Committee amendment, AM0042, found on page 337, was adopted with 28 ayes, 0 nays, 8 present and not voting, and 13 excused and not voting.

Senator Landis renewed his pending amendment, AM0216, found on page 419.

The Landis amendment was adopted with 31 ayes, 0 nays, 7 present and not voting, and 11 excused and not voting.

Senators Landis and Brashear offered the following amendment:

FA11

On page 14, line 2, following "activity" insert "or a membership constituting an admission pursuant to this subdivision"

The Landis-Brashear amendment was adopted with 28 ayes, 0 nays, 12 present and not voting, and 9 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 334.** Title read. Considered.

The Standing Committee amendment, AM0056, found on page 337, was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 37.** Title read. Considered.

Pending.

# **NOTICE OF COMMITTEE HEARINGS**

## **Agriculture** Room 2102

LB 517	Tuesday, February 22, 2005	1:30 p.m.
LB 673	Tuesday, February 22, 2005	1:30 p.m.

Tuesday, February 22, 2005	1:30 p.m.
Tamas R. Allan - Nebraska State Fair Board	

LB 131	Tuesday, March 1, 2005	1:30 p.m.
LB 440	Tuesday, March 1, 2005	1:30 p.m.

(Signed) Bob Kremer, Chairperson

## **Education** Room 1525

LB 270	Monday, February 14, 2005	1:30 p.m.
LB 285	Monday, February 14, 2005	1:30 p.m.
LB 561	Monday, February 14, 2005	1:30 p.m.
LB 627	Monday, February 14, 2005	1:30 p.m.
LB 636	Monday, February 14, 2005	1:30 p.m.

LB 142	Tuesday, February 15, 2005	1:30 p.m.
LB 145	Tuesday, February 15, 2005	1:30 p.m.
LB 304	Tuesday, February 15, 2005	1:30 p.m.
LB 717	Tuesday, February 15, 2005	1:30 p.m.

LB 95	Monday, February 28, 2005	1:30 p.m.
LB 326	Monday, February 28, 2005	1:30 p.m.
LB 327	Monday, February 28, 2005	1:30 p.m.

LB 357	Monday, February 28, 2005	1:30 p.m.
LR 1CA	Monday, February 28, 2005	1:30 p.m.
LR 24CA	Monday, February 28, 2005	1:30 p.m.

Monday, February 28, 2005	1:30 p.m.
M. Jane Keller - Board of Educational Lands and Funds	

LB 314	Tuesday, March 1, 2005	1:30 p.m.
LB 681	Tuesday, March 1, 2005	1:30 p.m.
LB 690	Tuesday, March 1, 2005	1:30 p.m.
LB 380	Tuesday, March 1, 2005	1:30 p.m.
LB 583	Tuesday, March 1, 2005	1:30 p.m.

LB 138	Monday, March 14, 2005	1:30 p.m.
LB 303	Monday, March 14, 2005	1:30 p.m.
LB 449	Monday, March 14, 2005	1:30 p.m.
LB 460	Monday, March 14, 2005	1:30 p.m.
LB 556	Monday, March 14, 2005	1:30 p.m.
LB 624	Monday, March 14, 2005	1:30 p.m.

LB 146	Tuesday, March 15, 2005	1:30 p.m.
LB 239	Tuesday, March 15, 2005	1:30 p.m.
LB 497	Tuesday, March 15, 2005	1:30 p.m.
LB 527	Tuesday, March 15, 2005	1:30 p.m.
LB 596	Tuesday, March 15, 2005	1:30 p.m.
LB 622	Tuesday, March 15, 2005	1:30 p.m.

(Signed) Ron Raikes, Chairperson

## STANDING COMMITTEE REPORTS

### Education

**LEGISLATIVE BILL 114.** Placed on General File as amended.  
Standing Committee amendment to LB 114:  
AM0247

- 1 1. On page 2, line 25, strike "2005-06" and insert
- 2 "2006-07"; and in line 26 strike "or" and insert ", a physician
- 3 assistant, an advanced practice registered nurse, or an".

(Signed) Ron Raikes, Chairperson

### Revenue

**LEGISLATIVE BILL 44.** Placed on General File as amended.  
Standing Committee amendment to LB 44:  
AM0248

- 1 1. On page 4, lines 27 and 28, strike "six thousand" and
- 2 insert "five thousand five hundred".
- 3 2. On page 15, line 21, strike "2006" and insert "2007".

**LEGISLATIVE BILL 90.** Placed on General File as amended.  
Standing Committee amendment to LB 90:  
AM0249

- 1 1. Insert the following new section:
- 2 "Sec. 2. Section 66-1345.04, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 66-1345.04. (1) The State Treasurer shall transfer from
- 5 the General Fund to the Ethanol Production Incentive Cash Fund, on
- 6 or before the end of each of fiscal years 1995-96 and 1996-97,
- 7 \$8,000,000 per fiscal year.
- 8 (2) It is the intent of the Legislature that the
- 9 following General Fund amounts be appropriated to the Ethanol
- 10 Production Incentive Cash Fund in each of the following years:
- 11 (a) For each of fiscal years 1997-98 and 1998-99,
- 12 \$7,000,000 per fiscal year;
- 13 (b) For fiscal year 1999-2000, \$6,000,000;
- 14 (c) For fiscal year 2000-01, \$5,000,000; ~~and~~
- 15 (d) For fiscal year 2001-02 and for each of fiscal years
- 16 2003-04 through 2007-08, \$1,500,000; and
- 17 (e) For fiscal year 2006-07, \$2,500,000 in addition to
- 18 the amount in subdivision (2)(d) of this section.
- 19 It is further the intent of the Legislature that the
- 20 \$1,500,000 General Fund appropriation that was not made in fiscal
- 21 year 2002-03 as a result of changes made by Laws 2002, LB 1,
- 22 Ninety-seventh Legislature, Second Special Session, be reimbursed
- 23 to the Ethanol Production Incentive Cash Fund by June 30, 2008".
- 24 2. On page 3, line 23, after "Original" insert "section
- 1 66-1345.04, Reissue Revised Statutes of Nebraska, and"; and in line
- 2 24 strike "is" and insert "are".
- 3 3. Renumber the remaining section accordingly.

(Signed) David Landis, Chairperson

### **Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 217.** Placed on General File as amended.  
Standing Committee amendment to LB 217:  
AM0278

- 1 1. On page 2, line 13; and page 3, lines 17 and 18,
- 2 strike "and storm water drainage".
- 3 2. On page 3, lines 2 and 3, strike "natural resources
- 4 district"; and in line 11 after "aid" insert "Governing body
- 5 does not include a natural resources district".

**LEGISLATIVE BILL 227.** Placed on General File as amended.  
Standing Committee amendment to LB 227:  
AM0062

- 1 1. On page 3, strike beginning with "Only" in line 15

- 2 through the period in line 17, show as stricken, and insert "No  
 3 portion of the principal of the Nebraska Veteran Cemetery System  
 4 Endowment Fund shall be expended for any purpose except investment  
 5 pursuant to this subdivision."; in line 20 strike the new matter;  
 6 and strike beginning with "Except" in line 26 through line 28 and  
 7 show the old matter as stricken.  
 8 2. On page 4, strike lines 1 through 4.

(Signed) DiAnna R. Schimek, Chairperson

### Health and Human Services

**LEGISLATIVE BILL 174.** Placed on General File.

**LEGISLATIVE BILL 25.** Placed on General File as amended.

Standing Committee amendment to LB 25:

AM0221

- 1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 "Section 1. Section 71-374, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 71-374. (1) ~~Except as provided in subsection (2) of this~~  
 6 ~~section~~ Until October 1, 2005, the board shall be composed of  
 7 eleven members. On and after October 1, 2005, the board shall be  
 8 composed of twelve members. The board shall include ; including  
 9 two school owners, one esthetician, one licensed instructor, two  
 10 laypersons, one cosmetologist who is a salon owner and who is not a  
 11 school owner, one electrologist who is not a licensed  
 12 cosmetologist, one nail technician, and two cosmetologists who are  
 13 not school owners, and one practitioner of body art as provided in  
 14 this section. The professional members shall be licensed in  
 15 Nebraska and maintain such license as well as their establishment  
 16 licenses in good standing. No members of the board who are school  
 17 owners, salon owners, electrologists, nail technicians,  
 18 instructors, ~~or~~ cosmetologists, or practitioners of body art may be  
 19 affiliated with the same establishment.  
 20 (2) ~~By October 1, 1999, the State Board of Health shall~~  
 21 ~~appoint one nail technician for a five year term. The initial nail~~  
 22 ~~technician member must be eligible for licensure and obtain a nail~~  
 23 ~~technician license by January 1, 2000, to remain eligible to serve~~  
 24 ~~on the board.~~  
 1 (3) ~~By October 1, 2002~~ 2005, the State Board of Health  
 2 shall appoint one ~~esthetician~~ practitioner of body art for a  
 3 five-year term.  
 4 (4) (3) Members of the board shall be appointed by the  
 5 State Board of Health from among nominees submitted by professional  
 6 associations and other interested parties. A person may nominate  
 7 himself or herself.  
 8 (5) (4) The State Board of Health may remove a member of

9 the board for physical or mental incapacity to carry out the duties  
10 of a board member, for continued neglect of duty, for incompetency,  
11 for acting beyond the individual member's scope of authority, for  
12 malfeasance in office, for any cause for which a professional  
13 license in the profession involved may be suspended or revoked  
14 under the Nebraska Cosmetology Act, or for a lack of licensure in  
15 the profession involved.

16 ~~(6)~~ (5) Vacancies on the board shall be filled in the  
17 same manner as original appointments for the remainder of the  
18 unexpired term only.

19 ~~(7)~~ (6) Members of the board, ~~other than the initial~~  
20 ~~members unless otherwise specifically provided~~, shall serve for  
21 five-year terms, and no member shall serve for more than two  
22 consecutive terms excluding any partial term for which he or she  
23 may have been appointed.

24 Sec. 2. Section 71-375, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 71-375. (1) Until October 1, ~~1999~~ 2005, any ~~five~~ six  
27 members of the board shall constitute a quorum for routine  
1 business, except that for matters requiring professional judgment  
2 of competency or standards of professional conduct, a quorum shall  
3 consist of any ~~four~~ five professional members.

4 (2) On and after October 1, ~~1999~~ 2005, any ~~six~~ seven  
5 members of the board shall constitute a quorum for routine  
6 business, except that for matters requiring professional judgment  
7 of competency or standards of professional conduct, a quorum shall  
8 consist of any ~~five~~ six professional members.

9 (3) The board shall meet at least twice a year and more  
10 often at the call of the chairperson or (a) until October 1, ~~1999~~  
11 2005, any ~~four~~ five members or (b) on and after October 1, ~~1999~~  
12 2005, any ~~five~~ six members.

13 (4) The board shall select officers from among its  
14 members, including a chairperson, vice-chairperson, and secretary.

15 (5) Members of the board shall be paid for their expenses  
16 as provided in sections 81-1174 to 81-1177 and shall in addition  
17 receive a per diem of fifty dollars.

18 Sec. 3. Section 71-3,177, Revised Statutes Supplement,  
19 2004, is amended to read:

20 71-3,177. Each of the following may be considered an act  
21 of unprofessional conduct when committed by a person licensed or  
22 registered under the Nebraska Cosmetology Act:

23 (1) Performing any of the practices regulated under the  
24 Nebraska Cosmetology Act for which an individual is not licensed or  
25 registered;

26 (2) Obstructing, interfering, or failing to cooperate  
27 with an inspection or investigation conducted by an authorized  
1 representative of the department when acting in accordance with the  
2 Nebraska Cosmetology Act;

3 (3) Failing to report to the department a suspected

- 4 violation of the Nebraska Cosmetology Act;
- 5 (4) Aiding and abetting an individual to practice any of  
6 the practices regulated under the Nebraska Cosmetology Act for  
7 which he or she is not licensed or registered;
- 8 (5) Engaging in any of the practices regulated under the  
9 Nebraska Cosmetology Act for compensation in an unauthorized  
10 location;
- 11 (6) Engaging in the practice of any healing art or  
12 profession for which a license is required without holding such a  
13 license;
- 14 (7) Enrolling a student or an apprentice without  
15 submitting a complete student entrance notification to the  
16 department;
- 17 (8) Knowingly falsifying any student or apprentice record  
18 or report;
- 19 (9) Initiating or continuing home services to a client  
20 who does not meet the criteria established in the Nebraska  
21 Cosmetology Act;
- 22 (10) Knowingly issuing a certificate of completion or  
23 diploma to a student or an apprentice who has not completed all  
24 requirements for the issuance of such document;
- 25 (11) Failing, by a school of cosmetology, a nail  
26 technology school, a school of esthetics, or an apprentice salon,  
27 to follow its published rules;
- 1 (12) Violating, by a school of cosmetology, nail  
2 technology school, or school of esthetics, any federal or state law  
3 involving the operation of a vocational school or violating any  
4 federal or state law involving participation in any federal or  
5 state loan or grant program;
- 6 (13) Knowingly permitting any person under supervision to  
7 violate any law, rule, or regulation or knowingly permitting any  
8 establishment or facility under supervision to operate in violation  
9 of any law, rule, or regulation;
- 10 (14) Receiving two unsatisfactory inspection reports  
11 within any sixty-day period;
- 12 (15) Engaging in any of the practices regulated under the  
13 Nebraska Cosmetology Act while afflicted with any active case of a  
14 serious contagious disease, infection, or infestation, as  
15 determined by the department, or in any other circumstances when  
16 such practice might be harmful to the health or safety of clients;
- 17 (16) Violating any rule or regulation relating to the  
18 practice of body art; and
- 19 (17) ~~Performing body art on or to any person under~~  
20 ~~eighteen years of age (a) without the prior written consent of the~~  
21 ~~parent or court appointed guardian of such person, (b) without the~~  
22 ~~presence of such parent or guardian during the procedure, or (c)~~  
23 ~~without retaining a copy of such consent for a period of five years~~  
24 Applying a tattoo, brand, or permanent color on or to any person  
25 under eighteen years of age or performing body piercing on any

26 person under sixteen years of age.

27 Sec. 4. Section 71-3,236, Revised Statutes Supplement,  
1 2004, is amended to read:

2 71-3,236. No person shall ~~perform body art~~ apply a  
3 tattoo, brand, or permanent color on or to any person under  
4 eighteen years of age. No person shall perform body piercing on  
5 any person under sixteen years of age. Violation of this section  
6 constitutes grounds for immediate suspension of the license to  
7 engage in any of the practices of body art of the person committing  
8 the violation. without the prior written consent of the parent or  
9 court appointed guardian of such person. The person giving such  
10 consent must be present during the procedure. A copy of such  
11 consent shall be retained for a period of five years by the person  
12 performing such body art. Nothing in this section shall be  
13 construed to require the performance of body art on a person under  
14 eighteen years of age. Violation of this section is a Class III  
15 misdemeanor.

16 Sec. 5. Original sections 71-374 and 71-375, Reissue  
17 Revised Statutes of Nebraska, and sections 71-3,177 and 71-3,236,  
18 Revised Statutes Supplement, 2004, are repealed."

**LEGISLATIVE BILL 177.** Placed on General File as amended.

Standing Committee amendment to LB 177:

AM0242

- 1 1. On page 2, line 12; and page 3, line 22, reinstate
- 2 the stricken matter.
- 3 2. On page 2, line 13; and page 3, line 23, after
- 4 "jurisdiction" insert "and sufficient training as determined by
- 5 the Board of Medicine and Surgery for physicians or the Board of
- 6 Psychologists for psychologists, in consultation with the Board of
- 7 Alcohol and Drug Counseling, and adopted and promulgated by the
- 8 department in rules and regulations".

**LEGISLATIVE BILL 26.** Indefinitely postponed.

**LEGISLATIVE BILL 27.** Indefinitely postponed.

**LEGISLATIVE BILL 338.** Indefinitely postponed.

**LEGISLATIVE BILL 339.** Indefinitely postponed.

(Signed) Jim Jensen, Chairperson

### AMENDMENT - Print in Journal

Senator Landis filed the following amendment to LB 298:

(Amendment, AM0250, is printed separately and available in the Bill Room, Room 1104.)

### VISITORS

Visitors to the Chamber were Senator Cornett's husband, Mark Stranglen,

from Bellevue.

The Doctor of the Day was Dr. Jon Hinrichs from Lincoln.

**MOTION - Adjournment**

Senator Wehrbein moved to adjourn until 10:00 a.m., Monday, February 7, 2005.

Senator Chambers requested a roll call vote on the motion to adjourn.

The Wehrbein motion to adjourn prevailed with 26 ayes, 6 nays, 10 present and not voting, and 7 excused and not voting, and at 12:06 p.m., the Legislature adjourned until 10:00 a.m., Monday, February 7, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**TWENTY-SECOND DAY - FEBRUARY 7, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**TWENTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, February 7, 2005

**PRAYER**

The prayer was offered by Pastor Michael McDonald, Grace Bible Fellowship Church, Stella.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Foley, Johnson, and Landis who were excused; and Senators Aguilar, Combs, and Synowiecki who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-first day was approved.

**STANDING COMMITTEE REPORTS  
Banking, Commerce and Insurance**

**LEGISLATIVE BILL 170.** Placed on General File.

**LEGISLATIVE BILL 466.** Placed on General File.

**LEGISLATIVE BILL 212.** Placed on General File as amended.

Standing Committee amendment to LB 212:

AM0182

- 1 1. On page 14, line 3, strike "An" and insert "A
- 2 discretionary".
- 3 2. On page 15, strike lines 13 through 15 and insert the
- 4 following new subdivision:
- 5 "(ii) Conversion of a trust to a total return trust is
- 6 clearly contrary to the manifestation of the settlor's intent as
- 7 expressed in the trust instrument or as may be established by other
- 8 evidence that would be admissible in a judicial proceeding; or".

**LEGISLATIVE BILL 533.** Placed on General File as amended.

(Standing Committee amendment, AM0238, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 570.** Placed on General File as amended.

(Standing Committee amendment, AM0229, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Mick Mines, Chairperson

### **GENERAL FILE**

**LEGISLATIVE BILL 37.** Considered.

Senator Chambers offered the following amendment:

FA12

On page 3 in line 19 strike "fifty" and insert "one hundred".

Senator Chambers moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 3:

Chambers	Erdman	Louden
----------	--------	--------

Voting in the negative, 33:

Baker	Combs	Friend	Langemeier	Smith
Beutler	Connealy	Heidemann	Mines	Stuhr
Bourne	Cornett	Howard	Preister	Synowiecki
Brashear	Cunningham	Hudkins	Price	Thompson
Brown	Engel	Janssen	Redfield	Wehrbein
Burling	Fischer	Kopplin	Schimek	
Byars	Flood	Kremer	Schrock	

Present and not voting, 10:

Aguilar	Jensen	McDonald	Pedersen, Dw.	Raikes
Cudaback	Kruse	Pahls	Pederson, D.	Stuthman

Excused and not voting, 3:

Foley	Johnson	Landis
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The Chambers amendment lost with 3 ayes, 33 nays, 10 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment:

FA13

Page 3, line 19 reinstate stricken matter, strike new matter

Senator Chambers moved for a call of the house. The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

The Chambers amendment was adopted with 43 ayes, 1 nay, 3 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for review with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 28.** Title read. Considered.

Pending.

## STANDING COMMITTEE REPORTS

### Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Jerry P. (Pat) Trotter - Environmental Quality Council

VOTE: Aye: Senators Hudkins, Kopplin, Kremer, Loudon, Schrock, Stuhr.  
Nay: None. Absent: Senators McDonald, Smith.

**LEGISLATIVE BILL 342.** Placed on General File.

(Signed) Ed Schrock, Chairperson

## NOTICE OF COMMITTEE HEARING

### General Affairs

Room 1510

LB 201	Monday, February 14, 2005	1:30 p.m.
LB 573	Monday, February 14, 2005	1:30 p.m.
LB 599	Monday, February 14, 2005	1:30 p.m.
LB 745	Monday, February 14, 2005	1:30 p.m.

(Signed) Ray Janssen, Chairperson

**AMENDMENTS - Print in Journal**

Senator Connealy filed the following amendment to LB 313:  
AM0286

- 1 1. On page 4, line 24, after the period insert
- 2 "(7) Any taxpayer who qualifies for tax credits under
- 3 this section shall not qualify for such tax credits if such
- 4 taxpayer discriminated against any person during the hiring process
- 5 or employment related to the project agreement.
- 6 (8)".

Senator Preister filed the following amendment to LB 312:  
AM0282

- 1 1. Insert the following new section:
- 2 "Sec. 10. Any taxpayer who qualifies for tax incentives
- 3 under the Employment and Investment Growth Act shall not qualify
- 4 for such tax incentives if such taxpayer has within the five years
- 5 immediately preceding the date of application violated any local,
- 6 state, or federal law, rule, regulation, permit, license, consent
- 7 decree, or order."
- 8 2. On page 2, line 11; and page 20, line 1, strike
- 9 "section 6" and insert "sections 6 and 10".
- 10 3. Renumber the remaining sections and correct internal
- 11 references accordingly.

Senator Preister filed the following amendment to LB 646:  
AM0281

- 1 1. Insert the following new section:
- 2 "Sec. 40. Any taxpayer who qualifies for tax incentives
- 3 under the Advantage Nebraska Act shall not qualify for such tax
- 4 incentives if such taxpayer has within the five years immediately
- 5 preceding the date of application violated any local, state, or
- 6 federal law, rule, regulation, permit, license, consent decree, or
- 7 order."
- 8 2. Renumber the remaining sections and correct internal
- 9 references accordingly.

**REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

Schweikart, Judy - Nebraska Accountability and Disclosure Commission -  
Government, Military and Veterans Affairs

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

## **BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 85A.** Introduced by Byars, 30.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 85, Ninety-ninth Legislature, First Session, 2005.

**LEGISLATIVE BILL 243A.** Introduced by Byars, 30.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 243, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

## **UNANIMOUS CONSENT - Add Cointroducers**

Senator Howard asked unanimous consent to have her name added as cointroducer to LB 66. No objections. So ordered.

Senator Engel asked unanimous consent to have his name added as cointroducer to LB 101. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 478. No objections. So ordered.

Senator Erdman asked unanimous consent to have his name added as cointroducer to LBs 522 and 617. No objections. So ordered.

## **VISITORS**

Visitors to the Chamber were John W. and Pat Madsen from Stuart; members of the Nebraska Bankers Association Leadership Program Class from across Nebraska; and students and teachers of Family and Consumer Science from across Nebraska.

## **ADJOURNMENT**

At 11:59 a.m., on a motion by Senator Byars, the Legislature adjourned until 9:00 a.m., Tuesday, February 8, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**TWENTY-THIRD DAY - FEBRUARY 8, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****TWENTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, February 8, 2005

**PRAYER**

The prayer was offered by Senator Smith.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Beutler, Brown, Cunningham, Heidemann, Landis, Loudon, McDonald, and Wehrbein who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

Page 437, line 27, strike "WedMD" and insert "WebMD".  
The Journal for the twenty-first day was approved as corrected.

The Journal for the twenty-second day was approved.

**STANDING COMMITTEE REPORTS  
Banking, Commerce and Insurance**

**LEGISLATIVE BILL 171.** Placed on General File.

**LEGISLATIVE BILL 640.** Placed on General File.

(Signed) Mick Mines, Chairperson

**ANNOUNCEMENT**

The Banking, Commerce and Insurance Committee designates LB 533 as its priority bill.

**MOTION - Approve Appointment**

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page

449:

Environmental Quality Council  
 Jerry P. (Pat) Trotter

Voting in the affirmative, 28:

Aguilar	Engel	Howard	Pahls	Schimek
Bourne	Erdman	Hudkins	Pedersen, Dw.	Schrock
Burling	Fischer	Janssen	Pederson, D.	Stuhr
Byars	Flood	Johnson	Price	Synowiecki
Combs	Foley	Kremer	Raikes	
Cudaback	Friend	Kruse	Redfield	

Voting in the negative, 0.

Present and not voting, 13:

Baker	Connealy	Kopplin	Preister	Thompson
Brashear	Cornett	Langemeier	Smith	
Chambers	Jensen	Mines	Stuthman	

Excused and not voting, 8:

Beutler	Cunningham	Landis	McDonald
Brown	Heidemann	Louden	Wehrbein

The appointment was confirmed with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

## GENERAL FILE

**LEGISLATIVE BILL 28.** Considered.

Senator D. Pederson offered the following amendment:

FA15

On page 4, line 10, strike "forty" and insert "thirty".

Senator Chambers offered the following amendment to the D. Pederson pending amendment:

FA17

Amend FA15

Strike "thirty" and insert "twenty"

Senator Chambers withdrew his amendment.

The D. Pederson amendment was adopted with 33 ayes, 3 nays, 12 present and not voting, and 1 excused and not voting.

Senator Connealy moved for a call of the house. The motion prevailed with

29 ayes, 0 nays, and 20 not voting.

Advanced to E & R for review with 32 ayes, 9 nays, and 8 present and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 28A.** Title read. Considered.

Senator Connealy moved for a call of the house. The motion prevailed with 27 ayes, 3 nays, and 19 not voting.

Advanced to E & R for review with 27 ayes, 6 nays, and 16 present and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 11.** Title read. Considered.

The Standing Committee amendment, AM0053, found on page 339, was adopted with 25 ayes, 0 nays, 22 present and not voting, and 2 excused and not voting.

Senator Landis offered the following amendment:  
AM0313

1 1. On page 2, line 21, strike "shall" and insert "may".

The Landis amendment was adopted with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 53.** Title read. Considered.

The Standing Committee amendment, AM0058, found on page 340, was considered.

Pending.

## **STANDING COMMITTEE REPORTS** **Transportation and Telecommunications**

**LEGISLATIVE BILL 341.** Placed on General File.

(Signed) Tom Baker, Chairperson

**Revenue**

**LEGISLATIVE BILL 66.** Placed on General File as amended.

(Standing Committee amendment, AM0296, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 291.** Placed on General File as amended.

Standing Committee amendment to LB 291:

AM0294

- 1 1. On page 3, lines 18 through 20, reinstate the
- 2 stricken matter.

**LEGISLATIVE BILL 300.** Placed on General File as amended.

Standing Committee amendment to LB 300:

AM0276

- 1 1. Strike original section 1 and insert the following
- 2 new section:
- 3 "Section 1. (1) The county assessor shall perform an
- 4 income-approach calculation for all rent-restricted housing
- 5 projects constructed to allow an allocation of low-income housing
- 6 tax credits under section 42 of the Internal Revenue Code and
- 7 approved by the Nebraska Investment Finance Authority when
- 8 considering the assessed valuation to place on the property for
- 9 each assessment year. The income-approach calculation shall be
- 10 consistent with any rules and regulations adopted and promulgated
- 11 by the Property Tax Administrator and shall comply with
- 12 professionally accepted mass appraisal techniques. Any low-income
- 13 housing tax credits authorized under section 42 of the Internal
- 14 Revenue Code that were granted to owners of the project shall not
- 15 be considered income for purposes of the calculation but may be
- 16 considered in determining the capitalization rate to be used when
- 17 capitalizing the income stream. The county assessor, in
- 18 determining the actual value of any specific property, may consider
- 19 other methods of determining value that are consistent with
- 20 professionally accepted mass appraisal methods described in section
- 21 77-112.
- 22 (2) The owner of a rent-restricted housing project shall
- 23 file a statement with the county assessor on or before October 1 of
- 24 each year that details income and expense data for the prior year,
- 1 a description of any land-use restrictions, and such other
- 2 information as the county assessor may require."

**LEGISLATIVE BILL 325.** Placed on General File as amended.

(Standing Committee amendment, AM0295, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 598.** Indefinitely postponed.

**LEGISLATIVE BILL 687.** Indefinitely postponed.

(Signed) David Landis, Chairperson

# **RESOLUTION**

**LEGISLATIVE RESOLUTION 38.** Introduced by Combs, 32; Fischer, 43; Hudkins, 21; Langemeier, 23; Louden, 49; McDonald, 41; Smith, 48.

WHEREAS, rural schools provide a quality education for approximately 150,000 students in Nebraska; and

WHEREAS, rural schools provide a community-based education that links children to their community, its history, and its future; and

WHEREAS, rural schools encourage students to participate in extracurricular activities to develop their talents and leadership skills; and

WHEREAS, rural schools are the center of social and community-based activities in many small towns and rural areas and provide many economic development and social benefits to rural places and rural people.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That February 15, 2005, be declared Rural Education Day in Nebraska.

Laid over.

## **AMENDMENTS - Print in Journal**

Senator Chambers filed the following amendment to LB 89:

FA14

Page 2, line 25, strike the semi-colon and add, ", if the requirements for licensure in the state of licensure are equal to or exceed the requirements for licensure in Nebraska."

Senator Chambers filed the following amendment to LB 28:

FA16

Page 6, strike lines 18-23.

Senator Baker filed the following amendment to LB 7:

AM0308

(Amendments to Standing Committee amendments, AM0037)

1. On page 1, line 2, after "roadways" insert ", except  
2 roadways that are part of the state highway system.".

Senator Johnson filed the following amendment to LB 246:

AM0288

1. On page 2, strike beginning with "Each" in line 21  
2 through "facility" in line 26 and show the old matter as stricken;  
3 and in line 28 before "or" insert "Each administrator shall be  
4 responsible for and oversee the operation of only one licensed  
5 facility or one integrated system, except that an administrator may  
6 make application to the board for approval to be responsible for  
7 and oversee the operations of a maximum of three licensed

- 8 facilities if such facilities are located within two hours' travel  
9 time of each other".  
10 2. On page 3, line 4, after "administrator" insert  
11 "responsible for and".

Senator Schrock filed the following amendment to LB 162:  
AM0325

- 1 1. On page 12, strike beginning with "A" in line 4
- 2 through the period in line 6 and show as stricken.
- 3 2. On page 13, line 18, strike "more" and insert "less".

### **ANNOUNCEMENT**

The Legislative Performance Audit Committee designates LB 588 as its priority bill.

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Burling asked unanimous consent to have his name added as cointroducer to LB 271. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Tiffany Burianek from Norris High School; Mary Hammond and Nelle Balsinger from Norfolk; Caleb and Zoe White from Crete; Shannon Barnard and Kristen Goesser from Omaha; 20 students from Union College; and the Butler County and Thayer County Leadership Plenty Groups.

The Doctor of the Day was Dr. David Filipi from Omaha.

### **ADJOURNMENT**

At 12:00 p.m., on a motion by Senator Byars, the Legislature adjourned until 9:00 a.m., Wednesday, February 9, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

## **TWENTY-FOURTH DAY - FEBRUARY 9, 2005**

### **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

### **TWENTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, February 9, 2005

### **PRAYER**

The prayer was offered by Pastor Robert Chitwood, Brownville Christian Church and Charter Oak Christian Church, Talmage.

### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Beutler, Brown, Byars, Cunningham, Friend, Mines, D. Pederson, Preister, and Thompson who were excused until they arrive.

### **CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-third day was approved.

### **ANNOUNCEMENT**

The Revenue Committee designates LB 499 as its priority bill.

### **NOTICE OF COMMITTEE HEARINGS**

#### **Appropriations Room 1003**

LB 421	Thursday, February 17, 2005	1:30 p.m.
LB 422	Thursday, February 17, 2005	1:30 p.m.
LB 423	Thursday, February 17, 2005	1:30 p.m.
LB 424	Thursday, February 17, 2005	1:30 p.m.
LB 425	Thursday, February 17, 2005	1:30 p.m.
LB 426	Thursday, February 17, 2005	1:30 p.m.
LB 427	Thursday, February 17, 2005	1:30 p.m.
LB 428	Thursday, February 17, 2005	1:30 p.m.
LB 183	Thursday, February 17, 2005	1:30 p.m.
LB 184	Thursday, February 17, 2005	1:30 p.m.
LB 398	Thursday, February 17, 2005	1:30 p.m.

LB 659      Thursday, February 17, 2005      1:30 p.m.

(Signed) Don Pederson, Chairperson

**Revenue**  
Room 1524

LB 231      Friday, February 25, 2005      1:30 p.m.  
LB 147      Friday, February 25, 2005      1:30 p.m.  
LB 358      Friday, February 25, 2005      1:30 p.m.

LB 628      Wednesday, March 2, 2005      1:30 p.m.  
LB 576      Wednesday, March 2, 2005      1:30 p.m.

LB 763      Thursday, March 3, 2005      1:30 p.m.  
LB 723      Thursday, March 3, 2005      1:30 p.m.  
LB 542      Thursday, March 3, 2005      1:30 p.m.

(Signed) David Landis, Chairperson

**STANDING COMMITTEE REPORTS**  
**Education**

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Marilyn Harris - Coordinating Commission for Postsecondary Education  
James W. Strand - Coordinating Commission for Postsecondary Education

VOTE: Aye: Senators Bourne, Byars, Howard, Kopplin, McDonald, Raikes, and Stuhr. Nay: None. Absent: Senator Schrock.

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Stephen Lewis - Board of Trustees of the Nebraska State Colleges  
Carter Peterson - Board of Trustees of the Nebraska State Colleges

VOTE: Aye: Senators Bourne, Byars, Howard, Kopplin, McDonald, Raikes, and Stuhr. Nay: None. Absent: Senator Schrock.

(Signed) Ron Raikes, Chairperson

**MOTION - Approve Appointment**

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page

436:

Game and Parks Commission  
James J. Ziebarth

Voting in the affirmative, 34:

Aguilar	Cudaback	Howard	Kruse	Schimek
Baker	Engel	Hudkins	Landis	Schrock
Brashear	Erdman	Janssen	Louden	Smith
Burling	Fischer	Jensen	Pahls	Stuhr
Chambers	Flood	Johnson	Pedersen, Dw.	Stuthman
Connealy	Foley	Kopplin	Price	Wehrbein
Cornett	Heidemann	Kremer	Redfield	

Voting in the negative, 0.

Present and not voting, 6:

Bourne	Langemeier	Raikes
Combs	McDonald	Synowiecki

Excused and not voting, 9:

Beutler	Byars	Friend	Pederson, D.	Thompson
Brown	Cunningham	Mines	Preister	

The appointment was confirmed with 34 ayes, 0 nays, 6 present and not voting, and 9 excused and not voting.

## GENERAL FILE

**LEGISLATIVE BILL 53.** The Standing Committee amendment, AM0058, found on page 340 and considered on page 455, was renewed.

Senator Smith offered the following amendment to the Standing Committee amendment:  
(Amendment, AM0330, is on file and available in the Clerk's Office, Room 2014.)

The Smith amendment lost with 8 ayes, 16 nays, 19 present and not voting, and 6 excused and not voting.

Senator Smith offered the following amendment to the Standing Committee amendment:  
AM0328

(Amendments to Standing Committee amendments, AM0058)

1. On page 1, line 17; page 2, lines 11 and 22; page 7, line 25; page 8, line 24; and page 10, line 19, strike "two" and insert "five".

4 2. On page 9, line 25, strike "two-year" and insert  
5 "five-year".

Senator Smith moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Senator Smith requested a record vote on his amendment.

Voting in the affirmative, 8:

Engel	Fischer	Landis	Louden
Erdman	Hudkins	Langemeier	Smith

Voting in the negative, 30:

Aguilar	Chambers	Johnson	Pedersen, Dw.	Schimek
Beutler	Connealy	Kopplin	Pederson, D.	Stuhr
Bourne	Cornett	Kruse	Preister	Stuthman
Brashear	Howard	McDonald	Price	Synowiecki
Burling	Janssen	Mines	Raikes	Thompson
Byars	Jensen	Pahls	Redfield	Wehrbein

Present and not voting, 10:

Baker	Combs	Cunningham	Friend	Kremer
Brown	Cudaback	Foley	Heidemann	Schrock

Excused and not voting, 1:

Flood

The Smith amendment lost with 8 ayes, 30 nays, 10 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

The Standing Committee amendment was adopted with 26 ayes, 3 nays, 19 present and not voting, and 1 excused and not voting.

## **SPEAKER BRASHEAR PRESIDING**

Pending.

## **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 33 and 34 were adopted.

## **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 33 and 34.

# **GENERAL FILE**

## **LEGISLATIVE BILL 53.** Considered.

Senator Schimek moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

Senator Smith requested a roll call vote, in reverse order, on the advancement of the bill.

Voting in the affirmative, 41:

Aguilar	Connealy	Jensen	Pahls	Stuhr
Beutler	Cornett	Johnson	Pedersen, Dw.	Stuthman
Bourne	Cudaback	Kopplin	Pederson, D.	Synowiecki
Brashear	Cunningham	Kremer	Preister	Thompson
Brown	Flood	Kruse	Price	Wehrbein
Burling	Heidemann	Landis	Raikes	
Byars	Howard	Langemeier	Redfield	
Chambers	Hudkins	McDonald	Schimek	
Combs	Janssen	Mines	Schrock	

Voting in the negative, 8:

Baker	Erdman	Foley	Louden
Engel	Fischer	Friend	Smith

Not voting, 0.

Advanced to E & R for review with 41 ayes, 8 nays, and 0 not voting.

The Chair declared the call raised.

## **STANDING COMMITTEE REPORTS** **Urban Affairs**

### **LEGISLATIVE BILL 161.** Placed on General File as amended.

Standing Committee amendment to LB 161:

AM0318

- 1 1. On page 2, strike beginning with "The" in line 3
- 2 through the period in line 8, show the old matter as stricken, and
- 3 insert "(1) Except as provided in subsection (2) of this section,
- 4 the assessment of special taxes for sewer or water improvements in
- 5 a district shall be levied at one time and shall become delinquent
- 6 in equal annual installments over a period of years equal to the
- 7 number of years for which the bonds for such project were issued
- 8 pursuant to section 16-670.".
- 9 2. On page 3, after line 3 insert:
- 10 "(2) If the city incurs no new indebtedness pursuant to

11 section 16-670 for sewer or water improvements in a district, the  
 12 assessment of special taxes for sewer or water improvements shall  
 13 be levied at one time and shall become delinquent in equal annual  
 14 installments over such period of years as the city council  
 15 determines at the time of making the levy to be reasonable and  
 16 fair.".

17 3. On page 4, strike beginning with "The" in line 16  
 18 through the period in line 22, show the old matter as stricken, and  
 19 insert "(1) Except as provided in subsection (2) of this section,  
 20 the assessment of special taxes for sanitary sewer extension mains  
 21 or water extension mains in a district shall be levied at one time  
 22 and shall become delinquent in equal annual installments over a  
 23 period of years equal to the number of years for which the bonds  
 24 for such project were issued pursuant to section 19-2405.".

1 4. On page 5, after line 22 insert:

2 "(2) If the city or village incurs no new indebtedness  
 3 pursuant to section 19-2405 for any water service extension or  
 4 sanitary sewer extension in a district, the assessment of special  
 5 taxes for such improvements shall be levied at one time and shall  
 6 become delinquent in equal annual installments over such period of  
 7 years as the city council or board of trustees determines at the  
 8 time of making the levy to be reasonable and fair.".

**LEGISLATIVE BILL 372.** Placed on General File as amended.

Standing Committee amendment to LB 372:

AM0319

1 1. Strike the original sections and insert the following  
 2 new section:  
 3 "Section 1. Notwithstanding any other provision of  
 4 sections 14-2101 to 14-2157 to the contrary, the board of directors  
 5 of a metropolitan utilities district shall, by majority vote of its  
 6 membership, designate the official title of the individual  
 7 exercising the duties and functions of the general manager as  
 8 specified in sections 14-2109, 14-2110, 14-2146, and 14-2147."

(Signed) Mike Friend, Chairperson

### **Business and Labor**

**LEGISLATIVE BILL 484.** Placed on General File.

**LEGISLATIVE BILL 485.** Placed on General File.

(Signed) Douglas Cunningham, Chairperson

### **Urban Affairs**

**LEGISLATIVE BILL 268.** Placed on General File.

**LEGISLATIVE BILL 406.** Placed on General File.

**LEGISLATIVE BILL 452.** Placed on General File.

**LEGISLATIVE BILL 662.** Indefinitely postponed.

(Signed) Mike Friend, Chairperson

**NOTICE OF COMMITTEE HEARINGS**

**Judiciary**  
Room 1113

LB 538	Wednesday, February 16, 2005	1:30 p.m.
LB 572	Wednesday, February 16, 2005	1:30 p.m.
LB 642	Wednesday, February 16, 2005	1:30 p.m.
LB 677	Wednesday, February 16, 2005	1:30 p.m.
LB 747	Wednesday, February 16, 2005	1:30 p.m.
LR 22CA	Wednesday, February 16, 2005	1:30 p.m.

LB 128	Thursday, February 17, 2005	1:30 p.m.
LB 322	Thursday, February 17, 2005	1:30 p.m.
LB 396	Thursday, February 17, 2005	1:30 p.m.
LB 444	Thursday, February 17, 2005	1:30 p.m.
LB 654	Thursday, February 17, 2005	1:30 p.m.

(Signed) Patrick J. Bourne, Chairperson

**Government, Military and Veterans Affairs**  
Room 1507

LB 373	Wednesday, February 16, 2005	1:30 p.m.
LB 474	Wednesday, February 16, 2005	1:30 p.m.
LB 476	Wednesday, February 16, 2005	1:30 p.m.
LB 490	Wednesday, February 16, 2005	1:30 p.m.
LB 565	Wednesday, February 16, 2005	1:30 p.m.

Wednesday, February 16, 2005	1:30 p.m.
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Steven Danon - State Emergency Response Commission

Donald Eisenhower - State Emergency Response Commission

Steve McCollister - Accountability and Disclosure Commission

(Signed) DiAnna R. Schimek, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 162.** Title read. Considered.

The Standing Committee amendment, AM0044, found on page 372, was considered.

Senator Chambers offered the following motion:

Bracket until May 29, 2005.

Senator Chambers withdrew his motion.

Senator Schrock offered the following amendment to the Standing Committee amendment:

FA18

Amend AM0044

Strike on page 1, line 9 after the semicolon through the period on line 10; and strike the new language on page 22, lines 26 through 28 of the bill and on page 18 strike the new language on line 22 through the semicolon on line 24.

The Schrock amendment was adopted with 27 ayes, 0 nays, 12 present and not voting, and 10 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

Senator Schrock renewed his pending amendment, AM0325, found on page 458.

The Schrock amendment was adopted with 26 ayes, 0 nays, 11 present and not voting, and 12 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 8 present and not voting, and 13 excused and not voting.

## **STANDING COMMITTEE REPORTS**

### **General Affairs**

The General Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Riley H. George - State Electrical Board

Tom F. Ourada - State Electrical Board

VOTE: Aye: Senators Connealy, Cornett, Erdman, Fischer, Friend, Janssen, Wehrbein. Nay: None. Absent: Senator Landis.

**LEGISLATIVE BILL 562.** Placed on General File.

**LEGISLATIVE BILL 563.** Placed on General File.

(Signed) Ray Janssen, Chairperson

### **Agriculture**

**LEGISLATIVE BILL 330.** Placed on General File.

**LEGISLATIVE BILL 150.** Placed on General File as amended.  
Standing Committee amendment to LB 150:  
AM0218

- 1 1. Insert the following new section:
- 2 "Sec. 17. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."
- 4 2. On page 8, strike beginning with "If" in line 10
- 5 through "(5)" in line 19; in line 21 strike ", on a calendar
- 6 quarterly basis,"; strike beginning with "The" in line 26 through
- 7 "(6)" in line 28 and insert the following: "The director shall pay
- 8 refunds no later than the fifteenth day of the month following the
- 9 month in which the request for refund is received.
- 10 (5)".
- 11 3. On page 9, line 6, strike "(7)" and insert "(6)".
- 12 4. On page 13, line 3, after "Terminated" insert "
- 13 except that if either operative contingency occurs on or before
- 14 September 1, 2005, the other sections of this act become operative
- 15 on September 1, 2005".

(Signed) Bob Kremer, Chairperson

### **ANNOUNCEMENT**

The Agriculture Committee designates LB 150 as its priority bill.

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Chambers asked unanimous consent to have his name added as cointroducer to LB 584. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 54 twelfth-grade students and teachers from Lincoln Christian High School; and Erin Bartholomew from Lincoln Southwest High School.

The Doctor of the Day was Dr. Randy Kohl from Firth.

### **ADJOURNMENT**

At 12:03 p.m., on a motion by Senator Cornett, the Legislature adjourned until 9:00 a.m., Thursday, February 10, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



# **TWENTY-FIFTH DAY - FEBRUARY 10, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **TWENTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, February 10, 2005

#### **PRAYER**

The prayer was offered by Pastor Michael Eckley, St. Rose of Lima Church in Hooper and St. Lawrence Church in Scribner.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Brashear who was excused; and Senators Beutler, Bourne, Brown, Landis, and Schimek who were excused until they arrive.

#### **CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-fourth day was approved.

#### **SELECT COMMITTEE REPORTS**

##### **Enrollment and Review**

**LEGISLATIVE BILL 54.** Placed on Select File as amended.

E & R amendment to LB 54:

AM7012

- 1 1. On page 2, line 21, reinstate the stricken comma.
- 2 2. On page 6, line 11; page 13, lines 19 and 21; page
- 3 18, line 18; and page 48, line 28, strike the underscored comma.
- 4 3. On page 24, line 18, strike "that" and insert "if
- 5 it".
- 6 4. On page 35, line 8; and page 36, lines 13 and 24,
- 7 after "county" insert "veterans".
- 8 5. On page 44, line 14, strike "was".
- 9 6. On page 47, line 17, strike "has: (1) Been", show as
- 10 stricken, and insert "or she (1) has been"; in line 19 after "his"
- 11 insert "or her"; in lines 19 and 22 strike the semicolon, show as
- 12 stricken, and insert an underscored comma; and in line 20 strike
- 13 the comma and show as stricken.

14 7. On page 49, line 7, after "him" insert "or her"; in  
15 line 13 strike "and"; in line 14 after "to" insert "31, and"; in  
16 line 17 after the second comma insert "60-311.08,"; in line 21  
17 strike "12-1301,"; and in line 22 strike "60-311.08," and after the  
18 last comma insert "77-3513, 77-3514,".

**LEGISLATIVE BILL 16.** Placed on Select File.

**LEGISLATIVE BILL 17.** Placed on Select File.

**LEGISLATIVE BILL 15.** Placed on Select File as amended.

E & R amendment to LB 15:

AM7010

1 1. In the Standing Committee amendments, AM0030:  
2 a. On page 5, lines 2 and 3, strike "Reissue Revised  
3 Statutes of Nebraska" and insert "Revised Statutes Supplement,  
4 2004";  
5 b. On page 22, line 27, strike "77-1345.01,"; and  
6 c. On page 23, line 2, after "77-202.04," insert  
7 "77-1345.01,".  
8 2. On page 1, strike lines 2 through 4 and insert  
9 "60-3005, 60-3006, 77-5018, 77-5019, 77-5026, and 77-5028, Reissue  
10 Revised Statutes of Nebraska, and sections 77-202.04, 77-1345.01,  
11 77-1514,"; and in line 6 after the first semicolon insert "to  
12 change procedures relating to valuation of property and changing  
13 taxable status of certain property;".

**LEGISLATIVE BILL 18.** Placed on Select File.

**LEGISLATIVE BILL 263.** Placed on Select File as amended.

E & R amendment to LB 263:

AM7009

1 1. On page 1, lines 6 and 7, strike "tax levy,  
2 administration, and appeal provisions" and insert "provisions  
3 relating to property taxes and property valuation for state aid to  
4 schools".  
5 2. On page 9, line 27, strike the comma and insert  
6 "and".

**LEGISLATIVE BILL 283.** Placed on Select File as amended.

E & R amendment to LB 283:

AM7011

1 1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:  
3 "Section 1. Section 77-1315.01, Revised Statutes  
4 Supplement, 2004, is amended to read:  
5 77-1315.01. After March 19 and on or before July 25 or  
6 on or before August 10 in counties that have adopted a resolution  
7 to extend the deadline for hearing protests under section 77-1502,  
8 the county assessor shall report to the county board of

9 equalization any overvaluation or undervaluation of any real  
10 property. The county board of equalization shall consider the  
11 report in accordance with section 77-1504.

12 The current year's assessed valuation of any real  
13 property shall not be changed by the county assessor after March 19  
14 except by action of the agricultural and horticultural land  
15 valuation board, the Tax Equalization and Review Commission, or the  
16 county board of equalization.

17 Sec. 2. Section 77-1502, Revised Statutes Supplement,  
18 2004, is amended to read:

19 77-1502. (1) The county board of equalization shall meet  
20 for the purpose of reviewing and deciding written protests filed  
21 pursuant to this section beginning on or after June 1 and ending on  
22 or before July 25 of each year. Protests regarding real property  
23 shall be filed after the county assessor's completion of the real  
24 property assessment roll required by section 77-1315 and on or  
1 before June 30. Protests regarding tangible personal property  
2 shall be filed on or before the last date for filing the return  
3 required by section 77-1229. The county board in a county with a  
4 population of more than one hundred thousand inhabitants based upon  
5 the most recent federal decennial census may adopt a resolution to  
6 extend the deadline for hearing protests from July 25 to August 10.  
7 The resolution must be adopted before July 25 and it will affect  
8 the time for hearing protests for that year only. By adopting such  
9 resolution, such county waives any right to petition the Tax  
10 Equalization and Review Commission for adjustment of a class or  
11 subclass of real property under section 77-1504.01 for that year.

12 (2) Each protest shall be filed in triplicate with the  
13 county clerk of the county where the property is assessed. The  
14 protest shall contain or have attached a statement of the reason or  
15 reasons why the requested change should be made and a description  
16 of the property to which the protest applies. If the property is  
17 real property, a description of each parcel shall be provided. If  
18 the property is tangible personal property, a physical description  
19 of the property under protest shall be provided. If the protest  
20 does not contain or have attached the statement of the reason or  
21 reasons for the protest or the description of the property, the  
22 protest shall be dismissed by the county board of equalization.

23 (3) The county clerk or county assessor shall prepare a  
24 separate report on each protest. The report shall include (a) a  
25 description of the property to which the protest applies, (b) any  
26 recommendation of the county assessor for action on the protest,  
27 (c) if a referee is used, the recommendation of the referee, (d)  
1 the date the county board of equalization heard the protest, (e)  
2 the decision made by the county board of equalization, (f) the date  
3 of the decision, and (g) the date notice of the decision was mailed  
4 to the protester. The report shall contain, or have attached to  
5 it, a statement, signed by the chairperson of the county board of  
6 equalization, describing the basis upon which the board's decision

7 was made. The report shall have attached to it a copy of that  
8 portion of the property record file which substantiates calculation  
9 of the protested value unless the county assessor certifies to the  
10 county board of equalization that a copy is maintained in either  
11 electronic or paper form in his or her office. One copy of the  
12 report shall be given to the county assessor. The county assessor  
13 shall have no authority to make a change in the assessment rolls  
14 until there is in his or her possession a report which has been  
15 completed in the manner specified in this section. If the county  
16 assessor deems a report submitted by the county clerk incomplete,  
17 the county assessor shall return the same to the county clerk for  
18 proper preparation.

19 (4) On or before August 2, or on or before August 18 in a  
20 county that has adopted a resolution to extend the deadline for  
21 hearing protests, the county clerk shall mail to the protester  
22 written notice of the board's decision. The notice shall contain a  
23 statement advising the protestor that a report of the board's  
24 decision is available at the county clerk's or county assessor's  
25 office, whichever is appropriate, and that a copy of the report may  
26 be used to complete an appeal to the Tax Equalization and Review  
27 Commission.

1 Sec. 3. Section 77-1504, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3 77-1504. The county board of equalization may meet on or  
4 after June 1 and on or before July 25, or on or before August 10 if  
5 the county has adopted a resolution to extend the deadline for  
6 hearing protests under section 77-1502, to consider and correct the  
7 current year's assessment of any real property which has been  
8 undervalued, overvalued, or omitted. The board shall give notice  
9 of the assessed value to the record owner or agent at his or her  
10 last-known address.

11 The county board of equalization in taking action  
12 pursuant to this section may consider the reports of the county  
13 assessor pursuant to sections 77-1315.01 and 77-1317 or any other  
14 documented information known to any member of the board.

15 Action of the county board of equalization pursuant to  
16 this section shall be for the current assessment year only.

17 The action of the county board of equalization may be  
18 protested to the board within thirty days after the mailing of the  
19 notice required by this section. If no protest is filed, the  
20 action of the board shall be final. If a protest is filed, the  
21 county board of equalization shall hear the protest in the manner  
22 prescribed in section 77-1502, except that all protests shall be  
23 heard and decided on or before September 15 or on or before  
24 September 30 if the county has adopted a resolution to extend the  
25 deadline for hearing protests under section 77-1502.

26 The action of the county board of equalization upon a  
27 protest filed pursuant to this section may be appealed to the Tax  
1 Equalization and Review Commission on or before October 15 or on or

2 before October 30 if the county has adopted a resolution to extend  
3 the deadline for hearing protests under section 77-1502.

4 Sec. 4. Section 77-1504.01, Revised Statutes Supplement,  
5 2004, is amended to read:

6 77-1504.01. (1) After Unless the county has adopted a  
7 resolution to extend the deadline for hearing protests under  
8 section 77-1502, after completion of its actions and based upon the  
9 hearings conducted pursuant to sections 77-1502 and 77-1504, a  
10 county board of equalization may petition the Tax Equalization and  
11 Review Commission to consider an adjustment to a class or subclass  
12 of real property within the county. Petitions must be filed with  
13 the commission on or before July 26.

14 (2) The commission shall hear and take action on a  
15 petition filed by a county board of equalization on or before  
16 August 10. Hearings held pursuant to this section may be held by  
17 means of videoconference. The burden of proof is on the  
18 petitioning county to show that failure to make an adjustment would  
19 result in values that are not equitable and in accordance with the  
20 law. At the hearing the commission may receive testimony from any  
21 interested person.

22 (3) After a hearing the commission shall, within the  
23 powers granted in section 77-5023, enter its order based on  
24 evidence presented to it at such hearing and the hearings held  
25 pursuant to section 77-5022 for that year. The order shall specify  
26 the percentage increase or decrease and the class or subclass of  
27 real property affected or any corrections or adjustments to be made  
1 to the class or subclass of real property affected. When issuing  
2 an order to adjust a class or subclass of real property, the  
3 commission may exclude individual properties from that order whose  
4 value has already been adjusted by a county board of equalization  
5 in the same manner as the commission directs in its order. On or  
6 before August 10 of each year, the commission shall send its order  
7 by certified mail to the county assessor and by regular mail to the  
8 county clerk and chairperson of the county board.

9 (4) The county assessor shall make the specified changes  
10 to each item of property in the county as directed by the order of  
11 the commission. In implementing such order, the county assessor  
12 shall adjust the values of the class or subclass that is the  
13 subject of the order. For properties that have already received an  
14 adjustment from the county board of equalization, no additional  
15 adjustment shall be made applying the commission's order, but such  
16 an exclusion from the commission's order shall not preclude  
17 adjustments to those properties for corrections or omissions. The  
18 county assessor of the county adjusted by an order of the  
19 commission shall recertify the abstract of assessment to the  
20 Property Tax Administrator on or before August 20.

21 Sec. 5. Section 77-1507, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 77-1507. (1) The county board of equalization may meet

24 at any time for the purpose of assessing any omitted real property  
25 which was not reported to the county assessor pursuant to section  
26 77-1318.01 and for clerical errors as defined in section 77-128

27 that result in a change of valuation. The county board of  
1 equalization shall give notice of the assessed value of the real  
2 property to the record owner or agent at his or her last-known  
3 address. For real property which has been omitted in the current  
4 year, the county board of equalization shall not send notice  
5 pursuant to this section on or before June 1.

6 Protests for omitted real property pursuant to this  
7 section and clerical errors shall be filed with the county board of  
8 equalization within thirty days after the mailing of the notice.

9 The procedures for filing a protest under this section shall be the  
10 same as those in section 77-1502 except for date restrictions.

11 (2) The county clerk shall, within seven days after the  
12 board's final decision, send:

13 (a) For protested action, a notification to the protester  
14 of the board's final action; and

15 (b) For protested and nonprotested action, a report to  
16 the Property Tax Administrator which shall state the description of  
17 the property, the reason such property was not assessed pursuant to  
18 section 77-1301, and a statement of the board's justification for  
19 its action. A copy of the report shall be available for public  
20 inspection in the office of the county clerk.

21 (3) The action of the county board of equalization upon a  
22 protest filed pursuant to this section may be appealed to the Tax  
23 Equalization and Review Commission within thirty days after the  
24 board's final decision.

25 (4) No omitted real property which was properly reported  
26 to the county assessor pursuant to section 77-1318.01 shall be  
27 added to the assessment roll after July 25 of the year or years in  
1 which the property was omitted or after August 10 of such year or  
2 years in counties that have adopted a resolution to extend the  
3 deadline for hearing protests under section 77-1502.

4 Sec. 6. Section 77-1510, Revised Statutes Supplement,  
5 2004, is amended to read:

6 77-1510. Any action of the county board of equalization  
7 pursuant to section 77-1502 may be appealed to the Tax Equalization  
8 and Review Commission in accordance with section 77-5013 on or  
9 before August 24 or on or before September 10 if the county has  
10 adopted a resolution to extend the deadline for hearing protests  
11 under section 77-1502.

12 Sec. 7. Section 77-1613.04, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 77-1613.04. The county assessor after July 25, or after  
15 August 10 in counties that have adopted a resolution to extend the  
16 deadline for hearing protests under section 77-1502, and with  
17 approval of the county board of equalization shall correct the  
18 assessment roll and the tax list, if necessary, in the case of a

19 clerical error as defined in section 77-128 that results in a  
 20 change in the value of the real property. Clerical errors that do  
 21 not result in a change of value on the assessment roll may be  
 22 corrected at any time by the county assessor. All corrections to  
 23 the tax list shall be made as provided in section 77-1613.02.  
 24 Sec. 8. Original sections 77-1504, 77-1507, and  
 25 77-1613.04, Reissue Revised Statutes of Nebraska, and sections  
 26 77-1315.01, 77-1502, 77-1504.01, and 77-1510, Revised Statutes  
 27 Supplement, 2004, are repealed."

- 1 2. On page 1, line 4, strike "and 77-1504.01" and insert
- 2 "77-1504.01, and 77-1510".

**LEGISLATIVE BILL 329.** Placed on Select File.

**LEGISLATIVE BILL 383.** Placed on Select File.

**LEGISLATIVE BILL 216.** Placed on Select File as amended.

E & R amendment to LB 216:

AM7015

- 1 1. In the Landis-Brashear amendment, FA11, on page 1,
- 2 strike "subdivision" and insert "subsection".
- 3 2. On page 1, line 8, after the last comma insert
- 4 "confidentiality,".

**LEGISLATIVE BILL 334.** Placed on Select File as amended.

E & R amendment to LB 334:

AM7013

- 1 1. Insert the following new section:
- 2 "Section 1. Section 13-202, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 13-202. The Legislature hereby finds that areas of
- 5 chronic economic distress in the State of Nebraska are a detriment
- 6 to the economic well-being, health, and safety of the citizens of
- 7 Nebraska. The Legislature further contends that current
- 8 governmental solutions have not been able to completely resolve
- 9 certain problems such as overcrowding, unemployment, and poor
- 10 health and sanitary conditions in a community which lead to further
- 11 deterioration. Such problems cannot be remedied by the government
- 12 alone, but can be alleviated through a partnership between the
- 13 government and private enterprise. It is therefor declared to be
- 14 public policy in this state to encourage contributions by business
- 15 firms and individuals that offer and provide community and
- 16 neighborhood assistance and community services."
- 17 2. On page 1, line 1, strike "section" and insert
- 18 "sections 13-202, 13-204, and"; and in line 3 strike "13-203,
- 19 13-204, 13-206," and insert "13-206".
- 20 3. On page 6, line 13, reinstate the stricken matter.
- 21 4. On page 7, line 12, strike "section" and insert
- 22 "sections 13-202, 13-204, and"; and in line 13 strike "13-204,
- 23 13-206," and insert "13-206".

24 5. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 37.** Placed on Select File as amended.

E & R amendment to LB 37:

AM7014

- 1 1. On page 1, line 1, strike "public lands, buildings,
- 2 and funds" and insert "the Nebraska Hall of Fame Commission"; and
- 3 strike lines 4 and 5 and insert "the commission; to change and
- 4 eliminate procedures for naming persons to the".

**LEGISLATIVE BILL 28.** Placed on Select File.

**LEGISLATIVE BILL 28A.** Placed on Select File.

**LEGISLATIVE BILL 11.** Placed on Select File.

**LEGISLATIVE BILL 53.** Placed on Select File.

(Signed) Michael Flood, Chairperson

## STANDING COMMITTEE REPORTS

### Nebraska Retirement Systems

**LEGISLATIVE BILL 368.** Placed on General File as amended.

Standing Committee amendment to LB 368:

AM0179

- 1 1. On page 2, lines 3 and 4, strike the new matter and
- 2 insert "Prior to September 1, 2005, and after August 31, 2007,
- 3 for"; and in lines 7 through 11 strike the new matter and insert
- 4 "Beginning on September 1, 2005, and ending August 31, 2006, for
- 5 the purpose of providing the funds to pay for formula annuities,
- 6 every employee shall be required to deposit in the School
- 7 Retirement Fund eight and three-hundredths percent of compensation.
- 8 Beginning on September 1, 2006, and ending August 31, 2007, for the
- 9 purpose of providing the funds to pay for formula annuities, every
- 10 employee shall be required to deposit in the School Retirement Fund
- 11 seven and eighty-eight hundredths percent of compensation.".

**LEGISLATIVE BILL 411.** Placed on General File as amended.

Standing Committee amendment to LB 411:

AM0104

- 1 1. On page 11, line 12, strike "or" and insert an
- 2 underscored comma; in line 13 after "compensation" insert "above
- 3 seven percent"; and in line 16 before the period insert ", and the
- 4 percentage increase in compensation above seven percent shall not
- 5 be excluded for employees outside of a collective-bargaining unit
- 6 or within the same category of school employee, or (C) the excess
- 7 compensation occurred as the result of a districtwide permanent
- 8 benefit change made by the employer for a category of school
- 9 employee in accordance with subdivision (35)(a)(iv) of this
- 10 section".

**LEGISLATIVE BILL 412.** Placed on General File as amended.  
 Standing Committee amendment to LB 412:  
 AM0212

- 1 1. On page 3, lines 12 and 13 and 16 and 17, strike
- 2 beginning with "transferred" through "Treasurer" and insert
- 3 "assessed against the appropriation of the Nebraska State Patrol".

(Signed) Elaine Stuhr, Chairperson

### **Agriculture**

**LEGISLATIVE BILL 71.** Placed on General File as amended.  
 Standing Committee amendment to LB 71:  
 AM0343

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Sections 1 to 13 of this act shall be known
- 4 and may be cited as the Agricultural Opportunities and Value-Added
- 5 Partnerships Act.
- 6 Sec. 2. (1) The Legislature finds that:
- 7 (a) There is a serious economic crisis in the
- 8 agricultural and rural sectors of Nebraska's economy;
- 9 (b) There is a need in such sectors to develop strategies
- 10 and programs to create genuine economic opportunities that enable
- 11 people to improve their incomes, avoid poverty, build assets, and
- 12 develop their capacity to contribute to the betterment of their
- 13 communities;
- 14 (c) Strong communities enable local residents to be more
- 15 self-sufficient, which contributes to the overall strength and
- 16 well-being of Nebraska; and
- 17 (d) Adding value to agricultural products offers farmers
- 18 and ranchers the potential to obtain a larger share of food
- 19 dollars.
- 20 (2) The Legislature further finds that there is a need
- 21 to:
- 22 (a) Support self-employment and small-scale
- 23 entrepreneurship in both agricultural and nonagricultural
- 24 activities;
- 1 (b) Enhance income and opportunities for farming and
- 2 ranching operations to stem the decline in the number of such
- 3 operations;
- 4 (c) Develop strategies and programs to increase the
- 5 farming and ranching operations' share of the food-system profit;
- 6 (d) Build the capacity of farming and ranching operations
- 7 and small rural businesses to benefit from the development of
- 8 electronic commerce; and
- 9 (e) Strengthen value-added enterprises by promoting
- 10 strategic partnerships and networks through multigroup cooperation.
- 11 Sec. 3. For purposes of the Agricultural Opportunities

12 and Value-Added Partnerships Act:

13 (1) Farming or ranching operation means the active use,  
14 management, and operation of real and personal property for the  
15 production of crops or raising of livestock;

16 (2) Project means any activity in the areas specified in  
17 section 7 of this act designed to promote the purposes specified in  
18 section 4 of this act. Project does not mean, and grant funds  
19 shall not be used for, any activity primarily designed to  
20 contribute to a single business, enterprise, or individual or  
21 designed to subsidize an existing farming or ranching operation;  
22 and

23 (3) Value-added means increasing the net worth of food or  
24 nonfood agricultural products by processing, alternative production  
25 and handling methods, collective marketing, or other innovative  
26 practices.

27 Sec. 4. The purposes of the Agricultural Opportunities  
1 and Value-Added Partnerships Act are to:

2 (1) Support small enterprise formation in the  
3 agricultural sector of Nebraska's rural economy, including  
4 innovative cooperative efforts for value-added enterprises;

5 (2) Support the development of agricultural communities  
6 and economic opportunity through innovative partnerships among  
7 farming and ranching operations, rural communities, and businesses  
8 for the development of value-added agricultural products;

9 (3) Encourage collaboration between farming and ranching  
10 operations and between farming and ranching operations and  
11 communities, government, and businesses as well as between  
12 communities and regions;

13 (4) Strengthen the value-added production industry by  
14 promoting strategic partnerships and networks through multigroup  
15 cooperation for the creation of employment opportunities in the  
16 value-added agriculture industry;

17 (5) Enhance the income and opportunity for farming and  
18 ranching operations in Nebraska in order to stem the decline in  
19 their numbers;

20 (6) Increase the farming and ranching operations' share  
21 of the food-system profit;

22 (7) Enhance the economic and social viability of rural  
23 communities in Nebraska that depend on agricultural production; and

24 (8) Enhance opportunities for farming and ranching  
25 operations to participate in electronic commerce and new and  
26 emerging markets that strengthen rural economic opportunities.

27 Sec. 5. (1) The Department of Agriculture and the  
1 Department of Economic Development shall establish a competitive  
2 grant process to provide grants under the Agricultural  
3 Opportunities and Value-Added Partnerships Act. The Department of  
4 Economic Development shall administer the act. Grants may be made  
5 for up to seventy-five thousand dollars annually to eligible  
6 entities under section 6 of this act that directly address one or

7 more of the purposes specified in section 4 of this act in the  
8 areas specified in section 7 of this act and which meet the  
9 requirements of this section and section 8 of this act.

10 (2) Priority for the awarding of grants within the  
11 parameters of this section shall be given to projects that make the  
12 greatest contribution in increasing the number and quality of  
13 self-employment opportunities for farming or ranching operations.  
14 Grants shall also be awarded to pilot cooperative efforts for the  
15 promotion of value-added products. Projects may be recommended for  
16 recognition by the Governor.

17 (3) A recipient of a grant shall not receive more than  
18 one grant in any one calendar year for the same project.

19 (4) Grants shall be awarded on a one-year basis but may  
20 be renewed on an annual basis for no more than three years. The  
21 Department of Agriculture and the Department of Economic  
22 Development shall develop an annual performance review process and  
23 a program for grant renewal of approved projects determined to have  
24 continued necessary statewide application and success.

25 (5) Grant funds shall not be used to replace other  
26 funding for the administrative support of the recipient or the  
27 administrative support of the project or for administrative costs  
1 relating to the planning of the project or for any activity  
2 primarily designed to contribute to a single business, enterprise,  
3 or individual. Grant funds for a project may be awarded to a  
4 cooperative, group, association, or other entity if the entity is  
5 involved in an activity designed to promote the purposes specified  
6 in section 4 of this act.

7 Sec. 6. Eligible entities for grants under the  
8 Agricultural Opportunities and Value-Added Partnerships Act include  
9 communities, counties, agencies, educational institutions, economic  
10 development providers, nonprofit corporations, agricultural  
11 cooperatives, agricultural associations, agricultural marketing  
12 associations or entities, resource conservation organizations,  
13 development districts, and farming or ranching operations in  
14 collaborative arrangements with other operations, entities, or  
15 organizations that meet the purposes specified in section 4 of this  
16 act.

17 Sec. 7. (1) Grants under the Agricultural Opportunities  
18 and Value-Added Partnerships Act shall be used to support projects  
19 in the following areas:

- 20 (a) Research;
- 21 (b) Education and training;
- 22 (c) Market development;
- 23 (d) Nonadministrative business planning assistance,  
24 feasibility and market studies, capitalization plans, and technical  
25 assistance;
- 26 (e) Development of cooperatives;
- 27 (f) Community and multicomunity initiatives;
- 1 (g) Creation, retention, and transfer of value-added

2 agricultural business initiatives in rural communities;  
3 (h) Efforts to obtain startup or working capital or other  
4 capital expenditures necessary for the development of the project;  
5 (i) Community-based, farmer-owned, or rancher-owned  
6 value-added initiatives; and  
7 (j) Other activities that are deemed necessary to fulfill  
8 the purposes specified in section 4 of this act.  
9 (2) Such projects shall demonstrate the ability to  
10 provide private new enterprise formation or expanded incomes and  
11 economic opportunities for existing enterprises.  
12 Sec. 8. To be eligible for a grant under the  
13 Agricultural Opportunities and Value-Added Partnerships Act, an  
14 applicant shall:  
15 (1) Document a matching amount in money or in-kind  
16 contributions or a combination of both equal to twenty-five percent  
17 of the grant funds requested;  
18 (2) Specify measurable goals and expected outcomes for  
19 the project for which the grant funds are requested; and  
20 (3) Specify an evaluation and impact assessment process  
21 or procedure for the project for which the grant funds are  
22 requested.  
23 Sec. 9. If the Department of Economic Development  
24 determines the recipient of a grant has failed to fulfill the  
25 requirements of the grant, used fraud to obtain or use the grant  
26 funds, or has any other way failed to comply with the Agricultural  
27 Opportunities and Value-Added Partnership Act or the rules and  
1 regulations adopted and promulgated pursuant to the act, the  
2 recipient shall repay a portion or all of the grant funds awarded.  
3 A recipient of grant funds shall not utilize or divert grant funds  
4 to any purpose or expenditure not specified or contemplated in the  
5 application or terms of the award of the grant without the prior  
6 approval of the department. The department may use any appropriate  
7 civil and criminal remedies available to enforce this section.  
8 Sec. 10. The Department of Economic Development shall  
9 submit an annual report to the Governor and the Legislature on or  
10 before January 1 listing the recipients and grant amounts for  
11 grants made under the Agricultural Opportunities and Value-Added  
12 Partnerships Act in the previous year, the documented and  
13 measurable impacts of the grants, and an evaluation of the  
14 performance of the grant program based on the measurable goals and  
15 expected outcomes of the recipients of such grants. Copies of the  
16 program performance evaluation shall be made available through  
17 print and electronic media.  
18 Sec. 11. The Department of Agriculture and the  
19 Department of Economic Development shall form a committee made up  
20 of staff from each agency to adopt and promulgate rules and  
21 regulations to carry out the Agricultural Opportunities and  
22 Value-Added Partnerships Act. Projects funded by grants under the  
23 act shall be coordinated with other organizations or institutions

24 working on similar projects in the state. The Department of  
25 Economic Development shall be the agency responsible for carrying  
26 out the act.

27 Sec. 12. The Agricultural Opportunities and Value-Added  
1 Partnerships Cash Fund is created. The fund shall be used by the  
2 Department of Economic Development for grants awarded pursuant to  
3 the Agricultural Opportunities and Value-Added Partnerships Act.  
4 Money credited to the fund shall include any monetary gifts,  
5 grants, donations, proceeds from contracts for services, and  
6 reimbursement of expenses. The department shall seek money from  
7 sources such as, but not limited to, federal funds, commodity  
8 checkoff funds, private donations, and private grants. All such  
9 funds shall be credited to the Agricultural Opportunities and  
10 Value-Added Partnerships Cash Fund. No funds shall be received or  
11 accepted for the Agricultural Opportunities and Value-Added  
12 Partnerships Cash Fund that are designated for the purpose of the  
13 benefit of a single business, enterprise, or individual. Any money  
14 in the fund available for investment shall be invested by the state  
15 investment officer pursuant to the Nebraska Capital Expansion Act  
16 and the Nebraska State Funds Investment Act.

17 Sec. 13. The Agricultural Opportunities and Value-Added  
18 Partnerships Act shall terminate on January 1, 2009.

19 Sec. 14. The following sections are outright repealed:  
20 Sections 2-5401 to 2-5412 and 90-527, Revised Statutes Supplement,  
21 2004.".

**LEGISLATIVE BILL 132.** Placed on General File as amended.  
Standing Committee amendment to LB 132:

AM0344

- 1 1. On page 4, line 20, after "customers" insert
- 2 "solely".
- 3 2. On page 6, line 20, after "pasteurization" insert
- 4 "and any labeling may not be otherwise false or misleading".

**LEGISLATIVE BILL 346.** Placed on General File as amended.  
Standing Committee amendment to LB 346:

AM0284

- 1 1. Strike section 11.
- 2 2. On page 8, line 10, and page 10, line 28, strike
- 3 beginning with "Beginning" through "2006" and insert "For all
- 4 taxable years beginning or deemed to begin on or after January 1,
- 5 2006, under the Internal Revenue Code of 1986, as amended".
- 6 3. On page 11, line 4, strike "on" and show as stricken.

**LEGISLATIVE BILL 492.** Placed on General File as amended.  
Standing Committee amendment to LB 492:

AM0326

- 1 1. On page 2, line 15, strike "Whenever" and insert "For
- 2 purposes of the Grain Warehouse Act, whenever".

(Signed) Bob Kremer, Chairperson

### Transportation and Telecommunications

**LEGISLATIVE BILL 157.** Placed on General File.

**LEGISLATIVE BILL 645.** Placed on General File as amended.  
Standing Committee amendment to LB 645:  
AM0316

- 1 1. On page 7, line 4, after "in" insert "subsection (1)
- 2 of section 70-625 and".

**LEGISLATIVE BILL 69.** Indefinitely postponed.

**LEGISLATIVE BILL 344.** Indefinitely postponed.

(Signed) Tom Baker, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 126.** Title read. Considered.

Senator Raikes withdrew his pending amendment, AM0041, found on page 327.

Senator Raikes offered the following amendment:  
AM0354

- 1 1. On page 7, line 9, strike "1" and insert "10"; in
- 2 line 25 after "act" insert "or there is not a high school district
- 3 with a membership percentage above zero percent as certified
- 4 pursuant to subsection (4) of section 1 of this act".
- 5 2. On page 17, line 23, strike "2" and insert "3".
- 6 3. On page 20, lines 18 and 19, strike the new matter
- 7 and insert "pursuant to this section".
- 8 4. On page 49, lines 21 and 28, after "2" insert "or 3".
- 9 5. On page 55, lines 3 and 6, after "2" insert "or 3".
- 10 6. On page 58, line 11, after the period insert "For
- 11 2005, pursuant to orders issued by the State Committee for the
- 12 Reorganization of School Districts on or before December 1, 2005,
- 13 for a Class I school district which dissolves and attaches its
- 14 territory to a Class II, III, IV, or VI school district in such a
- 15 manner that the parcels of property do not become a part of the
- 16 local system with which they were previously affiliated or to which
- 17 they were previously attached, the Property Tax Administrator shall
- 18 require the county assessor to recertify the Class I district's
- 19 taxable valuation according to the new affiliation on or before
- 20 December 20, 2005, on forms prescribed by the Property Tax
- 21 Administrator. For any local system's territory which is affected
- 22 by a recertification of a Class I district's taxable valuation, the



AGENCY 30 - State Electrical Board  
 AGENCY 74 - Power Review Board  
 AGENCY 41 - Real Estate Commission  
 AGENCY 53 - Real Estate Appraisers Board  
 AGENCY 63 - Board of Public Accountancy  
 AGENCY 32 - Educational Lands & Funds  
 AGENCY 62 - Board of Examiners for Land Surveyors  
 AGENCY 36 - Nebraska Racing Commission  
 AGENCY 58 - Board of Engineers and Architects  
 AGENCY 66 - Board of Examiners Abstracters  
 AGENCY 73 - Board of Landscape Architects

(Signed) Don Pederson, Chairperson

**Government, Military and Veterans Affairs**  
 Room 1507

LB 501	Thursday, February 17, 2005	1:30 p.m.
LB 509	Thursday, February 17, 2005	1:30 p.m.
LB 671	Thursday, February 17, 2005	1:30 p.m.
LB 762	Thursday, February 17, 2005	1:30 p.m.
LR 25CA	Thursday, February 17, 2005	1:30 p.m.

(Signed) DiAnna R. Schimek, Chairperson

**STANDING COMMITTEE REPORTS**  
**Natural Resources**

**LEGISLATIVE BILL 619.** Placed on General File as amended.  
 (Standing Committee amendment, AM0289, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Ed Schrock, Chairperson

**Business and Labor**

**LEGISLATIVE BILL 12.** Placed on General File as amended.  
 Standing Committee amendment to LB 12:  
 AM0174

- 1 1. On page 21, line 9, after "specialist" insert "or
- 2 judge".

(Signed) Douglas Cunningham, Chairperson

**General Affairs**

**LEGISLATIVE BILL 388.** Placed on General File as amended.  
 Standing Committee amendment to LB 388:  
 AM0355

1 1. Strike original sections 1 and 2 and insert the  
2 following new sections:  
3 "Section 1. Section 53-123.04, Reissue Revised Statutes  
4 of Nebraska, is amended to read:  
5 53-123.04. (1) A retail license shall allow the licensee  
6 to sell and offer for sale at retail either in the original package  
7 or otherwise, as prescribed in the license, on the premises  
8 specified in the license or on the premises where catering is  
9 occurring, alcoholic liquor or beer for use or consumption but not  
10 for resale in any form except as provided in section 53-175.  
11 (2) Nothing in the Nebraska Liquor Control Act shall  
12 prohibit a holder of a Class D license from allowing the sampling  
13 of tax-paid wine for consumption on the premises by such licensee  
14 or his or her employees in cooperation with a licensed wholesaler  
15 in the manner prescribed by the commission.  
16 (3)(a) A restaurant holding a license to sell alcoholic  
17 liquor at retail for consumption on the licensed premises may  
18 permit a customer to remove one unsealed bottle of wine for  
19 consumption off the premises if the customer has purchased a  
20 full-course meal and consumed a portion of the bottle of wine with  
21 such full-course meal on the licensed premises. The licensee or  
22 his or her agent shall (i) securely reseal such bottle in a bag  
23 designed so that it is visibly apparent that the resealed bottle of  
24 wine has not been tampered with and (ii) provide a dated receipt  
25 for the resealed bottle of wine and the full-course meal to the  
customer.  
3 (b) A bottle resealed pursuant to this subsection shall  
4 not be deemed an open container for purposes of section  
5 60-6,211.08.  
6 (c) For purposes of this subsection, full-course meal  
7 means a diversified selection of food which is ordinarily consumed  
8 with the use of tableware and cannot conveniently be consumed while  
9 standing or walking.  
10 Sec. 2. Section 53-123.11, Reissue Revised Statutes of  
11 Nebraska, is amended to read:  
12 53-123.11. (1) A farm winery license shall entitle the  
13 holder to:  
14 (a) Sell wines produced at the farm winery onsite at  
15 wholesale and retail and to sell wines produced at the farm winery  
16 at off-premises sites holding the appropriate retail license;  
17 (b) Sell wines produced at the farm winery at retail for  
18 consumption on the premises;  
19 (c) Permit a customer to remove one unsealed bottle of  
20 wine for consumption off the premises if such bottle is securely  
21 resealed in a bag designed so that it is visibly apparent that the  
22 resealed bottle of wine has not been tampered with and the farm  
23 winery provides a dated receipt for the resealed bottle of wine to  
24 the customer. A bottle resealed pursuant to this subdivision shall  
25 not be deemed an open container for purposes of section

26 60-6,211.08;

27 (d) Ship wines produced at the farm winery by common  
1 carrier and sold at retail to recipients in and outside the State  
2 of Nebraska, if the output of such farm winery for each calendar  
3 year as reported to the commission by December 31 of each year does  
4 not exceed thirty thousand gallons. In the event such amount  
5 exceeds thirty thousand gallons, the farm winery shall be required  
6 to use a licensed wholesaler to distribute its wines for the  
7 following calendar year, except that this requirement shall not  
8 apply to wines produced and sold onsite at the farm winery pursuant  
9 to subdivision (1)(a) of this section; and

10 ~~(d)~~ (e) Allow sampling of the wine at the farm winery and  
11 at one branch outlet in the state in reasonable amounts.

12 (2) No farm winery shall manufacture wine in excess of  
13 fifty thousand gallons per year."

14 2. On page 3, line 13, strike "section 2 of this act"

15 and insert "subsection (3) of section 53-123.04 and subdivision  
16 (1)(c) of section 53-123.11".

17 3. On page 4, line 7, strike "53-101" and insert

18 "53-123.04, 53-123.11,".

(Signed) Ray Janssen, Chairperson

### UNANIMOUS CONSENT - Add Cointroducer

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 446. No objections. So ordered.

### VISITORS

Visitors to the Chamber were 12 members of the Aurora Leadership Tomorrow Group; and Barbara Felt from Aurora, Colorado.

### ADJOURNMENT

At 12:00 p.m., on a motion by Senator Byars, the Legislature adjourned until 9:00 a.m., Friday, February 11, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**TWENTY-SIXTH DAY - FEBRUARY 11, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****TWENTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, February 11, 2005

**PRAYER**

The prayer was offered by Pastor Lee Weander, Our Savior Lutheran Church, Norfolk.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Brashear who was excused; and Senators Brown, Byars, Combs, Erdman, Kremer, Landis, D. Pederson, Preister, and Schrock who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-fifth day was approved.

**SELECT COMMITTEE REPORT  
Enrollment and Review**

**LEGISLATIVE BILL 162.** Placed on Select File as amended.  
(E & R amendment, AM7016, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Michael Flood, Chairperson

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of February 10, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Baker, R.J.

Elkhorn Valley Economic Development Council

Brown, Dennis

Equipment Leasing Association

Burhan, Charles H.

Liberty Mutual Insurance

Dugan, Susie

PRIDE-Omaha, Inc.

Gordon, John Michael

Advocates for Justice & Equality, Nebraska

Keigher, Timothy P.

Class VI Association of Schools

O'Brien, Patrick T.

Red D Cash

Peetz, Natalie

Apollo Group, Inc.

Schmit Industries, Inc.

Platte Valley Fuel Ethanol

## REPORTS

The following report was received by the Legislature:

### **Environmental Quality, Department of**

Litter Reduction and Recycling Grant Program 2004 Annual Report

## RESOLUTION

### **LEGISLATIVE RESOLUTION 39.** Introduced by Johnson, 37.

WHEREAS, Elsie Schubert of Wilcox, Nebraska, will celebrate her one hundredth birthday on February 18, 2005; and

WHEREAS, Mrs. Schubert was married to her late husband for seventy-one years; and

WHEREAS, Mrs. Schubert raised four children, who have given her sixteen grandchildren and fifteen great-grandchildren; and

WHEREAS, Mrs. Schubert is dearly loved and admired by her family.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature of the State of Nebraska wishes Mrs. Elsie Schubert a very happy one hundredth birthday.

2. That a copy of this resolution be delivered to Mrs. Schubert.

Laid over.

### **MOTIONS - Approve Appointments**

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 460:

Coordinating Commission for Postsecondary Education

Marilyn Harris

James W. Strand

Voting in the affirmative, 27:

Baker	Flood	Janssen	Pedersen, Dw.	Stuhr
Burling	Foley	Johnson	Price	Stuthman
Connealy	Friend	Kopplin	Raikes	Wehrbein
Cudaback	Heidemann	McDonald	Redfield	
Engel	Howard	Mines	Schimek	
Fischer	Hudkins	Pahls	Smith	

Voting in the negative, 0.

Present and not voting, 11:

Aguilar	Chambers	Kruse	Synowiecki
Beutler	Cornett	Langemeier	Thompson
Bourne	Cunningham	Louden	

Excused and not voting, 11:

Brashear	Combs	Kremer	Preister
Brown	Erdman	Landis	Schrock
Byars	Jensen	Pederson, D.	

The appointments were confirmed with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 460:

Board of Trustees of the Nebraska State Colleges

Stephen Lewis

Carter Peterson

Voting in the affirmative, 28:

Aguilar	Fischer	Janssen	Mines	Smith
Baker	Flood	Johnson	Pahls	Stuhr
Byars	Foley	Kopplin	Price	Stuthman
Cudaback	Friend	Kremer	Raikes	Wehrbein
Cunningham	Howard	Louden	Redfield	
Engel	Hudkins	McDonald	Schimek	

Voting in the negative, 0.

Present and not voting, 12:

Beutler	Chambers	Heidemann	Pedersen, Dw.
Bourne	Connealy	Kruse	Synowiecki
Burling	Cornett	Langemeier	Thompson

Excused and not voting, 9:

Brashear	Combs	Jensen	Pederson, D.	Schrock
Brown	Erdman	Landis	Preister	

The appointments were confirmed with 28 ayes, 0 nays, 12 present and not voting, and 9 excused and not voting.

Senator Janssen moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 466:

State Electrical Board  
 Riley H. George  
 Tom F. Ourada

Voting in the affirmative, 33:

Aguilar	Erdman	Hudkins	McDonald	Schimek
Baker	Fischer	Janssen	Pahls	Smith
Byars	Flood	Johnson	Pedersen, Dw.	Stuhr
Connealy	Foley	Kopplin	Preister	Stuthman
Cudaback	Friend	Kremer	Price	Wehrbein
Cunningham	Heidemann	Langemeier	Raikes	
Engel	Howard	Louden	Redfield	

Voting in the negative, 0.

Present and not voting, 9:

Beutler	Burling	Cornett	Mines	Thompson
Bourne	Chambers	Kruse	Synowiecki	

Excused and not voting, 7:

Brashear	Combs	Landis	Schrock
Brown	Jensen	Pederson, D.	

The appointments were confirmed with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

### GENERAL FILE

**LEGISLATIVE BILL 126.** Senator Hudkins offered the following amendment:

AM0251

- 1 1. On page 3, lines 1 and 12; page 4, lines 11 and 15;
- 2 page 5, line 2; page 6, lines 8, 17, and 20; page 7, lines 9, 17,
- 3 and 21; page 8, line 1; page 9, line 9; and page 58, line 12,
- 4 strike "2005" and insert "2055".
- 5 2. On page 3, lines 10 and 25, strike "2001-02, 2002-03,
- 6 or 2003-04" and insert "2051-52, 2052-53, or 2053-54"; and in
- 7 lines 19 and 20, strike "2002-03, 2003-04, or 2004-05" and insert
- 8 "2052-53, 2053-54, or 2054-55".
- 9 3. On page 5, lines 16 and 22; page 9, lines 18, 24, and
- 10 27; page 13, line 3; page 44, line 16; page 45, line 5; page 55,
- 11 lines 2 and 6; page 62, lines 1 and 11; page 63, line 19; page 65,
- 12 line 11; and page 69, lines 11 and 17, strike "2006" and insert
- 13 "2056".
- 14 4. On page 7, line 23; and page 9, line 2, strike
- 15 "2005-06" and insert "2055-56".
- 16 5. On page 45, line 6, strike "2010" and insert "2060".
- 17 6. On page 54, lines 25 and 28; page 68, line 21; page
- 18 69, line 3; and page 70, line 4, strike "2006-07" and insert
- 19 "2056-57".
- 20 7. On page 55, line 7, strike "2007-08" and insert
- 21 "2057-58".
- 22 8. On page 74, line 10, strike "2006" and insert "2056".

Senator Beutler moved the previous question. The question is, "Shall the debate now close?"

Senator Beutler moved for a call of the house. The motion prevailed with 16 ayes, 1 nay, and 32 not voting.

Senator Beutler requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 27:

Aguilar	Cornett	Kruse	Preister	Synowiecki
Baker	Engel	Landis	Price	Thompson
Beutler	Howard	Mines	Raikes	Wehrbein
Bourne	Janssen	Pahls	Redfield	
Brown	Kopplin	Pedersen, Dw.	Schrock	
Burling	Kremer	Pederson, D.	Stuhr	

Voting in the negative, 13:

Chambers	Fischer	Friend	Langemeier	Smith
Cunningham	Flood	Heidemann	Louden	
Erdman	Foley	Hudkins	McDonald	

Present and not voting, 5:

Combs	Conneally	Cudaback	Johnson	Schimek
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Excused and not voting, 4:

Brashear	Byars	Jensen	Stuthman
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The motion to cease debate prevailed with 27 ayes, 13 nays, 5 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Hudkins withdrew her amendment.

Pending.

## ANNOUNCEMENT

The Government, Military and Veterans Affairs Committee designates LB 242 as its priority bill.

## STANDING COMMITTEE REPORTS

### Business and Labor

**LEGISLATIVE BILL 462.** Placed on General File as amended.

Standing Committee amendment to LB 462:

AM0368

- 1 1. On page 5, line 26, strike "draft" and insert
- 2 "prescribe".

**LEGISLATIVE BILL 532.** Placed on General File as amended.

Standing Committee amendment to LB 532:

AM0367

- 1 1. On page 4, lines 24 through 26, reinstate the
- 2 stricken matter and after the reinstated "notice" insert "and".
- 3 2. On page 5, line 4, after "Nebraska" insert ". It
- 4 shall be the duty of the Attorney General to act as attorney for

5 the State of Nebraska for purposes of this subsection. The  
6 Attorney General may file a motion pursuant to section 48-162.03  
7 for an order directing an employer to appear before a judge of the  
8 compensation court and show cause as to why a civil penalty should  
9 not be assessed against the employer pursuant to this subsection.  
10 The Attorney General shall be considered a party for purposes of  
11 such motion. The Attorney General may appear before the  
12 compensation court and present evidence of a violation or  
13 violations pursuant to this subsection. Appeal from an order of a  
14 judge of the compensation court pursuant to this subsection shall  
15 be in accordance with section 48-179".

(Signed) Douglas Cunningham, Chairperson

### **Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 240.** Placed on General File.

**LEGISLATIVE BILL 241.** Placed on General File.

**LEGISLATIVE BILL 401.** Placed on General File as amended.

Standing Committee amendment to LB 401:

AM0369

1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 32-101, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 32-101. Sections 32-101 to 32-1551 and sections 5, 7,  
6 and 8 of this act shall be known and may be cited as the Election  
7 Act.  
8 Sec. 2. Section 32-903, Reissue Revised Statutes of  
9 Nebraska, is amended to read:  
10 32-903. (1) The election commissioner or county clerk  
11 shall create precincts composed of compact and contiguous territory  
12 within the boundary lines of legislative districts. The precincts  
13 shall contain not less than seventy-five nor more than one thousand  
14 registered voters based on the number of voters voting at the last  
15 statewide general election, except that a precinct may contain less  
16 than seventy-five registered voters if in the judgment of the  
17 election commissioner or county clerk it is necessary to avoid  
18 creating an undue hardship on the registered voters in the  
19 precinct. The election commissioner or county clerk shall create  
20 precincts based on the number of votes cast at the immediately  
21 preceding presidential election or the current list of registered  
22 voters for the precinct. The election commissioner or county clerk  
23 shall revise and rearrange the precincts and increase or decrease  
24 them at such times as may be necessary to make the precincts  
1 contain as nearly as practicable not less than seventy-five nor  
2 more than one thousand registered voters voting at the last  
3 statewide general election. The election commissioner or county

4 clerk shall, when necessary and possible, readjust precinct  
5 boundaries to coincide with the boundaries of cities, villages, and  
6 school districts which are divided into districts or wards for  
7 election purposes. The election commissioner or county clerk shall  
8 not make any precinct changes in precinct boundaries or divide  
9 precincts into two or more parts between the statewide primary and  
10 general elections unless he or she has been authorized to do so by  
11 the Secretary of State. If changes are authorized, the election  
12 commissioner or county clerk shall notify each state and local  
13 candidate affected by the change.

14 (2) The election commissioner or county clerk may alter  
15 and divide the existing precincts, except that when any city of the  
16 first class by ordinance divides any ward of such city into two or  
17 more voting districts or polling places, the election commissioner  
18 or county clerk shall establish precincts or polling places in  
19 conformity with such ordinance. No such alteration or division  
20 shall take place between the statewide primary and general  
21 elections except as provided in subsection (1) of this section.

22 (3) All precincts and polling places may be consolidated  
23 for the use of electronic voting systems into fewer and larger  
24 precincts as deemed necessary and advisable by the election  
25 commissioner or county clerk. Such precincts, consolidated for  
26 electronic voting systems only, may have as many registered voters  
27 therein as deemed advisable in the interest of economy and  
1 efficiency. At least one electronic voting device shall be  
2 provided for every five hundred registered voters voting in the  
3 consolidated precinct or polling place at the immediately preceding  
4 general election.

5 Sec. 3. Section 32-904, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 32-904. The election commissioner or county clerk shall  
8 designate the polling places for each precinct at which the  
9 registered voters of the precinct will cast their votes. Polling  
10 places representing different precincts may be combined at a single  
11 location when potential sites cannot be found, contracts for  
12 utilizing polling sites cannot be obtained, or a potential site is  
13 not accessible to handicapped persons. When combining polling  
14 places at a single site for an election other than a special  
15 election, the election commissioner or county clerk shall clearly  
16 separate the polling places from each other and maintain separate  
17 receiving and counting boards. When combining polling places at a  
18 single site for a special election, the election commissioner or  
19 county clerk may combine the polling places and receiving and  
20 counting boards. Polling places shall not be changed between the  
21 statewide primary and general elections unless the election  
22 commissioner or county clerk has been authorized to make such  
23 change by the Secretary of State. If changes are authorized, the  
24 election commissioner or county clerk shall notify each state and  
25 local candidate affected by the change. Notwithstanding any other

26 provision of the Election Act, the Secretary of State may adopt and  
 27 promulgate rules and regulations to establish polling places, other  
 1 than polling places established as otherwise provided in this  
 2 section and other than the office of the election commissioner or  
 3 county clerk, which may be used for voting pursuant to section  
 4 32-1041 for twenty days prior to the day of the election.

5 Sec. 4. Section 32-915, Reissue Revised Statutes of  
 6 Nebraska, is amended to read:

7 32-915. (1) If a person is registered to vote but (a)  
 8 his or her name does not appear in the voter registration register  
 9 or his or her name appears with a notation that he or she received  
 10 an absentee ballot, (b) he or she is not entitled to vote under  
 11 section 32-914.01 or 32-914.02, and (c) he or she has continuously  
 12 resided in such county since registering to vote whether or not he  
 13 or she has moved within the county, the person shall be notified by  
 14 a judge or clerk of election or precinct inspector that the person  
 15 is entitled to vote upon completing a voter registration form at  
 16 the polling place for his or her place of residence.

17 (2) The person shall enclose his or her ballot in an  
 18 envelope marked Provisional Ballot and shall, by signing the front  
 19 of the envelope or a separate form attached to the envelope,  
 20 certify to the following facts:

21 (a) I am a registered voter in ..... County;

22 (b)(i) I registered to vote on approximately  
 23 ..... (write the approximate date you registered to  
 24 vote) and I registered to vote (check one):

25 .... in person at the election office or a voter  
 26 registration site,

27 .... by mail,

1 .... on a form through the Department of Motor Vehicles,

2 .... on a form through another state agency,

3 .... in some other way; or

4 (ii) I have not resided outside of this county or voted  
 5 outside of this county since registering to vote in this county;

6 (c) My current address is shown on the voter registration  
 7 form; and

8 (d) I am eligible to vote in this election and I have not  
 9 voted and will not vote in this election except by this ballot.

10 (3) The certification shall be signed under penalty of  
 11 election falsification. The following statements shall be on the  
 12 front of the envelope or on the attached form: By signing the front  
 13 of this envelope or the attached form you are certifying to the  
 14 information contained on this envelope or the attached form under  
 15 penalty of election falsification. Election falsification is a  
 16 Class IV felony and may be punished by up to five years  
 17 imprisonment, a fine of up to ten thousand dollars, or both.

18 Sec. 5. A person who is the age of an elector and a  
 19 citizen of the United States residing outside the United States,  
 20 who has not resided in the United States, and who has a parent

21 registered to vote within the state shall be eligible to register  
22 to vote and vote in the county in which his or her parent is a  
23 registered voter.

24 Sec. 6. Section 32-939, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 32-939. (1) The persons listed in this subsection who  
27 are residents of Nebraska but who reside outside the United States

1 shall be allowed to simultaneously register to vote and make  
2 application for absentee ballots for all elections in a calendar  
3 year through the use of the Federal Post Card Application or a  
4 personal letter which includes the same information as appears on  
5 the Federal Post Card Application:

6 (a) Members of the armed forces of the United States and  
7 their spouses and dependents residing with them;

8 (b) Citizens temporarily residing outside of the United  
9 States and the District of Columbia; and

10 (c) Overseas citizens.

11 (2) An omission of required information, except the  
12 political party affiliation of the applicant, may prevent the  
13 processing of an application and mailing of absentee ballots. The  
14 request for absentee ballots and registration forms shall be sent  
15 to the election commissioner or county clerk of the county of the  
16 applicant's residence at any time in the same calendar year but  
17 prior to any election. If so requested, absentee ballots may be  
18 sent for all elections held in the county in that calendar year.

19 (3) Any person meeting the criteria in subsection (1) of  
20 this section may cast a ballot by the use of the Federal Write-In  
21 Absentee Ballot. The Federal Write-In Absentee Ballot may be used  
22 for all elections. If a person casting a ballot using the Federal  
23 Write-In Absentee Ballot is not a registered voter, the information  
24 submitted in the Federal Write-In Absentee Ballot transmission  
25 envelope shall be treated as a voter registration application.

26 (4) Any person meeting the criteria in subsection (1) of  
27 this section requesting an absentee ballot under this section or  
1 the special absentee ballot described in section 32-808 may receive  
2 and return the ballot and the oath prescribed in subsection (2) of  
3 section 32-947 ~~by facsimile but shall return the cast ballot and~~  
4 ~~completed oath by mail using any method of transmission authorized~~  
5 by the Secretary of State.

6 Sec. 7. If an absentee ballot is destroyed, spoiled,  
7 lost, or not received by the registered voter, the voter may cast a  
8 provisional ballot pursuant to section 32-915 at the voter's  
9 polling place on election day or may obtain a replacement absentee  
10 ballot from the election commissioner or county clerk by signing a  
11 statement verified on oath or affirmation on a form prescribed by  
12 the Secretary of State that the absentee ballot was destroyed,  
13 spoiled, lost, or not received and delivering the statement to the  
14 election commissioner or county clerk. To receive a replacement  
15 absentee ballot in person, the voter shall return the statement to

16 the office of the election commissioner or county clerk by noon on  
 17 the day of the election. To receive a replacement absentee ballot  
 18 by mail, the voter shall return the statement to such office prior  
 19 to the close of business on the fourth business day before the  
 20 election. If the election commissioner or county clerk receives a  
 21 statement meeting the requirements of this section, he or she shall  
 22 deliver a replacement absentee ballot to the voter if the voter is  
 23 present in the office or shall mail a replacement absentee ballot  
 24 to the voter at the address shown on the statement. The election  
 25 commissioner or county clerk shall keep a record of all replacement  
 26 absentee ballots issued under this section.

27 Sec. 8. In any county with less than seven thousand  
 1 inhabitants, the county clerk may apply to the Secretary of State  
 2 to mail ballots for all elections held after approval of the  
 3 application to registered voters of any or all of the precincts in  
 4 the county in lieu of establishing polling places for such  
 5 precincts. The application shall include a written plan for the  
 6 conduct of the election, including a timetable for the conduct of  
 7 the election and provisions for the notice of election to be  
 8 published and for the application for absentee ballots  
 9 notwithstanding other statutory provisions regarding the content  
 10 and publication of a notice of election or the application for  
 11 absentee ballots. If the Secretary of State approves such  
 12 application for one or more precincts in the county, the county  
 13 clerk shall follow the applicable procedures in sections 32-953 to  
 14 32-959 for conducting elections by mail, except that the deadline  
 15 for receipt of the ballots shall be 8 p.m. on the day of the  
 16 election.

17 Sec. 9. Section 32-1041, Reissue Revised Statutes of  
 18 Nebraska, is amended to read:  
 19 32-1041. The election commissioner or county clerk may  
 20 use paper ballots, optical-scan ballots, or voting systems approved  
 21 by the Secretary of State to allow registered voters to cast their  
 22 votes at any election. Paper ballots may be used in combination  
 23 with other methods of casting ballots. The election commissioner  
 24 or county clerk may use vote counting devices and voting systems  
 25 approved by the Secretary of State for tabulating the votes cast at  
 26 any election. Vote counting devices shall include electronic  
 27 counting devices such as optical scanners. Any new voting or  
 1 counting system shall be approved by the Secretary of State prior  
 2 to use by an election commissioner or county clerk.  
 3 Notwithstanding any other provision of the Election Act, the  
 4 Secretary of State may adopt and promulgate rules and regulations  
 5 to establish different procedures and locations for voting and  
 6 counting votes pursuant to the use of any new voting or counting  
 7 system. The procedures shall be designed to preserve the safety  
 8 and confidentiality of each vote cast and the secrecy and security  
 9 of the counting process, to establish security provisions for the  
 10 prevention of fraud, and to ensure that the election is conducted

11 in a fair manner.

12 Sec. 10. Original sections 32-101, 32-903, 32-904,

13 32-915, 32-939, and 32-1041, Reissue Revised Statutes of Nebraska,

14 are repealed."

**LEGISLATIVE BILL 56.** Indefinitely postponed.

**LEGISLATIVE BILL 255.** Indefinitely postponed.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Stuart MacTaggart - Department of Aeronautics

VOTE: Aye: Senators Burling, Fischer, Mines, Pahls, Schimek, Wehrbein.  
Nay: None. Absent: Senators Brown, Langemeier.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Samuel Seever - State Personnel Board

VOTE: Aye: Senators Burling, Fischer, Mines, Pahls, Schimek, Wehrbein.  
Nay: None. Absent: Senators Brown, Langemeier.

(Signed) DiAnna R. Schimek, Chairperson

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 40.** Introduced by Erdman, 47; Loudon, 49; Smith, 48.

WHEREAS, Dr. William Winkle is retiring after thirty-four years as director of bands at Chadron State College; and

WHEREAS, Dr. Winkle founded the High Plains Band and Choir Festival and High Plains Jazz Festival; and

WHEREAS, Dr. Winkle is an accomplished musician and has performed with the International Brass Quintet and numerous symphonies and has received many honors; and

WHEREAS, Dr. Winkle will receive the Nebraska Bandmasters' Distinguished Service Award in March 2005.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Dr. William Winkle of Chadron State College.

2. That a copy of this resolution be sent to Dr. William Winkle.

Laid over.

# GENERAL FILE

**LEGISLATIVE BILL 126.** Senator McDonald offered the following amendment:

AM0086

- 1 1. On page 46, line 11, after "means" insert "(i)"; and
- 2 in line 12 after "counted" insert "and (ii) option students as
- 3 defined in section 79-233 enrolled in and attending such elementary
- 4 attendance center in such school year".

Senator Baker moved the previous question. The question is, "Shall the debate now close?"

Senator Fischer requested a ruling of the Chair on whether there had been sufficient debate, pursuant to Rule 7, Sec. 4.

The Chair ruled there had been sufficient debate on the McDonald amendment.

Senator Fischer challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

Senator Beutler moved for a call of the house. The motion prevailed with 14 ayes, 5 nays, and 30 not voting.

Senator Hudkins requested a roll call vote on the Fischer motion to overrule the Chair.

Voting in the affirmative, 15:

Burling	Fischer	Heidemann	Louden	Smith
Cunningham	Flood	Hudkins	McDonald	Stuthman
Erdman	Foley	Kremer	Schrock	Wehrbein

Voting in the negative, 19:

Baker	Howard	Pahls	Price	Stuhr
Beutler	Kopplin	Pedersen, Dw.	Raikes	Synowiecki
Chambers	Landis	Pederson, D.	Redfield	Thompson
Engel	Langemeier	Preister	Schimek	

Present and not voting, 11:

Aguilar	Combs	Cudaback	Johnson
Bourne	Connealy	Friend	Kruse
Brown	Cornett	Janssen	

Excused and not voting, 4:

Brashear	Byars	Jensen	Mines
----------	-------	--------	-------

The Fischer motion to overrule the Chair failed with 15 ayes, 19 nays, 11 present and not voting, and 4 excused and not voting.

The Chair was sustained.

Senator Baker requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 23:

Aguilar	Burling	Kopplin	Pederson, D.	Stuhr
Baker	Engel	Kruse	Preister	Synowiecki
Beutler	Howard	Landis	Price	Thompson
Bourne	Janssen	Pahls	Raikes	
Brown	Johnson	Pedersen, Dw.	Redfield	

Voting in the negative, 17:

Chambers	Fischer	Hudkins	McDonald	Wehrbein
Connealy	Flood	Kremer	Schrock	
Cunningham	Foley	Langemeier	Smith	
Erdman	Heidemann	Louden	Stuthman	

Present and not voting, 5:

Combs	Cornett	Cudaback	Friend	Schimek
-------	---------	----------	--------	---------

Excused and not voting, 4:

Brashear	Byars	Jensen	Mines
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The motion to cease debate failed with 23 ayes, 17 nays, 5 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Pending.

### STANDING COMMITTEE REPORT Nebraska Retirement Systems

**LEGISLATIVE BILL 494.** Placed on General File as amended.  
Standing Committee amendment to LB 494:  
AM0373

1 1. On page 2, lines 7 through 8, reinstate the stricken

- 2 matter.
- 3 2. On page 3, line 3; and page 7, line 21, strike "and"
- 4 and show as stricken.
- 5 3. On page 3, line 6; and page 7, line 24, after
- 6 "securities" insert "; and
- 7 (h) An age-based account which shall be invested under
- 8 the direction of the state investment officer with an asset
- 9 allocation and investment strategy that changes based upon the age
- 10 of the member. The board shall develop an account mechanism that
- 11 will change the investments as the employee nears retirement age.
- 12 The asset allocation and asset classes utilized in the investments
- 13 will move from aggressive, to moderate, and then to conservative as
- 14 retirement age approaches".
- 15 4. On page 3, line 9; and page 7, line 27, strike "(a)",
- 16 show as stricken, and insert "(h)".
- 17 5. On page 5, line 17; and page 10, line 7, strike the
- 18 new matter and insert "age-based account".
- 19 6. On page 5, line 18; and page 10, line 8, strike the
- 20 new matter and insert "(1)(h)".

(Signed) Elaine Stuhr, Chairperson

## RESOLUTION

### LEGISLATIVE RESOLUTION 41. Introduced by Combs, 32.

WHEREAS, Dustin P. Simpson, of Troop 305 of Hebron, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Dustin has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. Dustin earned 26 merit badges and was chosen to be a member of the Order of the Arrow. For his Eagle Scout community service project, Dustin landscaped and beautified the Oregon Trail markers in Thayer County; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Dustin P. Simpson, through his hard work and perseverance, joins other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

## NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Dustin P. Simpson on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Dustin P. Simpson.

Laid over.

**NOTICE OF COMMITTEE HEARINGS**  
**Transportation and Telecommunications**  
Room 1113

LB 663	Tuesday, February 22, 2005	1:30 p.m.
LB 721	Tuesday, February 22, 2005	1:30 p.m.
LB 587	Tuesday, February 22, 2005	1:30 p.m.
LB 400	Tuesday, February 22, 2005	1:30 p.m.
LB 470	Tuesday, February 22, 2005	1:30 p.m.
LB 678	Monday, February 28, 2005	1:30 p.m.
LB 559	Monday, February 28, 2005	1:30 p.m.
LB 665	Monday, February 28, 2005	1:30 p.m.
LB 220	Monday, February 28, 2005	1:30 p.m.
LB 675	Monday, February 28, 2005	1:30 p.m.
LB 333	Monday, February 28, 2005	1:30 p.m.
LB 631	Tuesday, March 1, 2005	1:30 p.m.
LB 221	Tuesday, March 1, 2005	1:30 p.m.
LB 558	Tuesday, March 1, 2005	1:30 p.m.
LB 697	Tuesday, March 1, 2005	1:30 p.m.
LR 15	Tuesday, March 1, 2005	1:30 p.m.
LB 438	Tuesday, March 8, 2005	1:30 p.m.
LB 288	Tuesday, March 8, 2005	1:30 p.m.
LB 65	Tuesday, March 8, 2005	1:30 p.m.
LB 68	Tuesday, March 8, 2005	1:30 p.m.
LB 86	Tuesday, March 8, 2005	1:30 p.m.

(Signed) Tom Baker, Chairperson

**AMENDMENTS - Print in Journal**

Senator Loudon filed the following amendment to LB 126:  
AM0075

- 1 1. Insert the following new section:
- 2 "Sec. 38. Notwithstanding the provisions of sections
- 3 79-824 to 79-849, the school board of each school district shall
- 4 review the employment of each permanent certificated teacher in any
- 5 of grades kindergarten through twelve in the district not less
- 6 often than every ten years to determine whether or not such teacher
- 7 shall continue to be employed by the district.".

- 8 2. Amend the operative date section so that the section  
 9 added by this amendment becomes operative on its effective date.  
 10 3. Renumber the remaining sections and correct internal  
 11 references accordingly.

Senator Beutler filed the following amendment to LB 126:  
 FA19

On page 6, line 18 change "may" to "shall"

Senator Beutler filed the following amendment to LB 126:  
 FA20

On page 10, line 1 strike the word "not"

Senator Smith filed the following amendment to LB 126:  
 FA21

P. 44, line 26, strike "and" and replace with "or".

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Schimek asked unanimous consent to have her name added as cointroducer to LB 712. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 754. No objections. So ordered.

### **WITHDRAW - Cointroducer**

Senator Dw. Pedersen withdrew his name as cointroducer to LB 599.

### **VISITORS**

Visitors to the Chamber were Dr. Joyce Simmons from Valentine; Russell Kreikemeier and Lynn Hinderaker from Omaha; Wilbur, Nathan, and Candace Young and Bob Heckman from Columbus; and Josh Germer from Diller.

### **ADJOURNMENT**

At 12:01 p.m., on a motion by Senator Langemeier, the Legislature adjourned until 10:00 a.m., Monday, February 14, 2005.

Patrick J. O'Donnell  
 Clerk of the Legislature



**TWENTY-SEVENTH DAY - FEBRUARY 14, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**TWENTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, February 14, 2005

**PRAYER**

The prayer was offered by Pastor Brad Boyer, St. John and Zion Lutheran Churches, Chester.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Combs who was excused; and Senator Byars who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

Page 492, after line 19, insert "Pending."

The Journal for the twenty-sixth day was approved as corrected.

**STANDING COMMITTEE REPORTS**

**Revenue**

**LEGISLATIVE BILL 40.** Placed on General File as amended.

Standing Committee amendment to LB 40:

AM0387

- 1 1. Insert the following new section:
- 2 "Sec. 4. This act becomes operative on October 1,
- 3 2005."
- 4 2. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 356.** Indefinitely postponed.

**LEGISLATIVE BILL 386.** Indefinitely postponed.

**LEGISLATIVE BILL 513.** Indefinitely postponed.

(Signed) David Landis, Chairperson

**Education**

**LEGISLATIVE BILL 39.** Placed on General File.

**LEGISLATIVE BILL 352.** Placed on General File.

**LEGISLATIVE BILL 196.** Placed on General File as amended.

Standing Committee amendment to LB 196:

AM0406

- 1 1. Strike original section 4 and insert the following
- 2 new section:
- 3 "Section 1. Section 85-408, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 85-408. The boards are authorized and directed to
- 6 establish and maintain such schedule of rates, fees, or charges for
- 7 the use of the facilities afforded by the buildings constructed or
- 8 acquired under sections 85-401 to 85-411 and other facilities
- 9 controlled by such board, the revenue of which in whole or in part
- 10 is pledged to the holder of the bonds, which shall be in an amount
- 11 at least sufficient on the amortization plan to pay the operating
- 12 and maintenance charges thereof and the principal and interest
- 13 representing the indebtedness against the income and revenue
- 14 therefrom and may be sufficient in amount to provide for such bond
- 15 reserve, replacement, and surplus funds as the boards in their
- 16 discretion shall determine. The amounts in such funds shall be
- 17 expended for such purposes in connection with the facilities as the
- 18 boards shall determine, and any amount in any surplus or
- 19 replacement fund and any amounts received through the sale,
- 20 condemnation, or destruction of any facilities may be used to
- 21 construct, repair, or replace any of the types of facilities
- 22 described in section 85-403. Any amounts in such funds are
- 23 specifically appropriated to the purposes of such funds and shall
- 24 at all times be subject to the orders of the boards accordingly.
- 1 Before any single expenditure in excess of ~~two hundred~~
- 2 fifty five hundred thousand dollars is made from any such surplus
- 3 or replacement fund, the board concerned shall first submit such
- 4 proposed expenditure to the Coordinating Commission for
- 5 Postsecondary Education for review as provided in section 85-1415
- 6 and secure the approval of the Legislature or, if the Legislature
- 7 is not in session, of the Executive Board of the Legislative
- 8 Council as provided in such section."
- 9 2. On page 3, line 27, strike "fifty", show as stricken,
- 10 and insert "seventy-five".
- 11 3. On page 13, line 13, strike "85-1402" and insert
- 12 "85-408, 85-1402, "; and in line 14 strike "sections 85-1414 and
- 13 85-1920" and insert "section 85-1414".
- 14 4. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 689.** Placed on General File as amended.

Standing Committee amendment to LB 689:

AM0403

1 1. On page 2, line 12, strike "Two representatives" and  
 2 insert "One school district superintendent or public school  
 3 principal;  
 4 (7) One representative"; in line 13 strike ", one of  
 5 whom" and insert "who"; in line 15 strike "(7) Two representatives"  
 6 and insert "(8) One representative"; in line 16 strike "(8) Two  
 7 representatives" and insert "(9) One representative"; strike line  
 8 18; in line 19 after "Governor" insert "  
 9 (11) One representative of the Nebraska Educational  
 10 Telecommunications Commission who has expertise in technology  
 11 infrastructure or distance education;  
 12 (12) One representative of the University of Nebraska who  
 13 has expertise in technology infrastructure or distance education;  
 14 (13) One representative of state colleges who has  
 15 expertise in technology infrastructure or distance education;  
 16 (14) One representative of community colleges who has  
 17 expertise in technology infrastructure or distance education; and  
 18 (15) One representative of the Coordinating Commission  
 19 for Postsecondary Education who has expertise in dual enrollment  
 20 courses"; in line 20 strike "(7)" and insert "(8)"; in line 21  
 21 strike "(9)" and insert "(11) through (15)"; and in line 23 strike  
 22 "(6), (8)" and insert "(7), (9)".  
 23 2. On page 3, line 17, strike "November 1" and insert  
 24 "December 31"; and in line 18 strike "broadband" and insert "high  
 1 capacity".

(Signed) Ron Raikes, Chairperson

## NOTICE OF COMMITTEE HEARINGS

### Appropriations

Room 1003

Thursday, February 24, 2005

1:30 p.m.

AGENCY 81 - Commission for the Blind and Visually Impaired

AGENCY 38 - Commission on the Status of Women

AGENCY 67 - Equal Opportunity Commission

AGENCY 68 - Commission on Mexican-Americans

AGENCY 70 - State Foster Care Review Board

AGENCY 76 - Commission on Indian Affairs

AGENCY 82 - Commission for the Deaf and Hard of Hearing

(Signed) Don Pederson, Chairperson

## Government, Military and Veterans Affairs

Room 1507

LB 512 Wednesday, February 23, 2005

1:30 p.m.

LB 566 Wednesday, February 23, 2005

1:30 p.m.

LB 682	Wednesday, February 23, 2005	1:30 p.m.
LB 761	Wednesday, February 23, 2005	1:30 p.m.

LB 459	Thursday, February 24, 2005	1:30 p.m.
LB 475	Thursday, February 24, 2005	1:30 p.m.
LB 519	Thursday, February 24, 2005	1:30 p.m.
LB 683	Thursday, February 24, 2005	1:30 p.m.
LR 11CA	Thursday, February 24, 2005	1:30 p.m.

Thursday, February 24, 2005	1:30 p.m.
Judy Schweikart - Nebraska Accountability and Disclosure Commission	

LB 602	Wednesday, March 2, 2005	1:30 p.m.
LB 657	Wednesday, March 2, 2005	1:30 p.m.
LB 684	Wednesday, March 2, 2005	1:30 p.m.
LB 701	Wednesday, March 2, 2005	1:30 p.m.

(Signed) DiAnna R. Schimek, Chairperson

### ANNOUNCEMENTS

Senator D. Pederson designates LB 66 as his priority bill.

Senator Johnson designates LB 470 as his priority bill.

### MESSAGES FROM THE GOVERNOR

February 10, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed to the Commission for the Deaf and Hard of Hearing.

#### APPOINTEE:

\*Daniel R. Darnall, 115 N 33rd Street #2, Omaha NE 68131

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/

Enclosure

\*Reappointment

February 10, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed as Chief Information Officer.

APPOINTEE:

Brenda L. Decker, 1811 Urbana Lane, Lincoln NE 68505

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/  
Enclosure

## **GENERAL FILE**

**LEGISLATIVE BILL 126.** Senator McDonald renewed her pending amendment, AM0086, found on page 499.

## **SPEAKER BRASHEAR PRESIDING**

Pending.

## **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 35, 36, and 37 were adopted.

## **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 35, 36, and 37.

**GENERAL FILE**

**LEGISLATIVE BILL 126.** The McDonald pending amendment, AM0086, found on page 499 and considered in this day's Journal, was renewed.

Pending.

**AMENDMENTS - Print in Journal**

Senator Fischer filed the following amendment to LB 126:  
AM0400

- 1 1. Insert the following new section:
- 2 "Sec. 48. Section 79-1092, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 79-1092. All money arising from any source whatever
- 5 which is payable to the school fund of any city of the primary
- 6 class or city of the first class which may become a city of the
- 7 metropolitan class, or any money which is required to be set apart
- 8 by the treasurer of any such city for the support and maintenance
- 9 of any school in such city, shall be payable to the treasurer of
- 10 the school district and shall be used only for the purposes
- 11 specified in sections 79-409, ~~79-476~~, 79-522, 79-535 to 79-537,
- 12 79-552, 79-561, 79-562, 79-567, 79-573, 79-574, 79-583, 79-584,
- 13 79-592, 79-593, 79-1086, 79-1087, 79-1092, and 79-10,126."
- 14 2. On page 74, line 25, after the first comma insert
- 15 "79-476,".
- 16 3. Amend the operative date section so that section 48
- 17 added by this amendment becomes operative on its effective date.
- 18 4. Renumber the remaining sections and correct internal
- 19 references accordingly.

Senator Cunningham filed the following amendment to LB 118:  
AM0317

(Amendments to E & R amendments, AM7001)

- 1 1. On page 3, strike beginning with "neither" in line 4
- 2 through line 5 and insert "not unreasonably deny such"; in line 6
- 3 after "shall" insert "be sent by certified mail and shall"; and in
- 4 line 8 after the period insert "The approval or denial of a request
- 5 made pursuant to this subsection shall be made in writing and sent
- 6 by certified mail within sixty days after receipt of the request.
- 7 If the supplier has not approved or denied the request within the
- 8 sixty-day period, the request is deemed approved.".

Senator Burling filed the following amendment to LB 126:  
AM0415

- 1 1. Strike original section 5 and insert the following
- 2 new section:
- 3 "Section 1. Sections 2 to 4 of this act do not apply to
- 4 a school district which was a Class VI district on January 1, 2005,
- 5 and is a Class VI district on the operative date of this section
- 6 and the Class I districts which were a part of such Class VI
- 7 District on January 1, 2005, and which are a part of such Class VI

8 district on the operative date of this section.".

- 9 2. Amend the operative date section so that section 1
- 10 added by this amendment becomes operative on its effective date.
- 11 3. Renumber the remaining sections and correct internal
- 12 references accordingly.

Senator Beutler filed the following amendment to LB 162:  
AM0385

(Amendments to E & R amendments, AM7016)

- 1 1. Strike sections 1 and 18.
- 2 2. On page 22, line 1, strike "21, and 22" and insert
- 3 "19, and 20"; and in line 6 strike "37-201,".
- 4 3. Renumber the remaining sections accordingly.

Senator Fischer filed the following amendment to LB 126:  
AM0100

- 1 1. Strike sections 5, 13, 18, 22, 25, 28, 44, and 47.
- 2 2. On page 3, line 3, strike "IV, and VI" and insert
- 3 "and IV"; strike beginning with "or" in line 5 through "part" in
- 4 line 6; in lines 13, 18, 24, and 28 strike "IV, or VI" and insert
- 5 "or IV".
- 6 3. On page 4, lines 2 and 20, strike "or" through
- 7 "part"; in lines 3, 5, 8, 11, and 18 strike "IV, or VI" and insert
- 8 "or IV"; and strike beginning with "or" in line 7 through "part" in
- 9 line 8.
- 10 4. On page 5, line 1, after "section" insert "and except
- 11 as provided in subsection (6) of this section"; in lines 6, 10, 13,
- 12 and 15 strike "IV, or VI" and insert "or IV"; in line 7 strike "or"
- 13 through "part"; and strike lines 26 through 28 and insert the
- 14 following new subsection:
- 15 "(6) This section does not apply to any territory of a
- 16 Class I district which is part of a Class VI district on the
- 17 operative date of this section.".
- 18 5. On page 6, strike lines 1 through 3; in line 10 after
- 19 "act" insert "and except for any territory of any Class I district
- 20 which is part of a Class VI district"; in lines 10, 20, and 24 and
- 21 25 strike "IV, or VI" and insert "or IV"; strike beginning with
- 22 "To" in line 12 through line 16; and in line 26 strike "IV, and VI"
- 23 and insert "and IV".
- 24 6. On page 7, line 5, after the semicolon insert "and";
- 1 strike beginning with "all" in line 5 through "(iv)" in line 7; in
- 2 lines 7, 18, and 26 strike "IV or VI" and insert "or IV"; and in
- 3 line 27 strike "or a part".
- 4 7. On page 8, lines 6, 8, 11, 13, and 23, strike "IV, or
- 5 VI" and insert "or IV"; and in line 19 strike "(6)" and insert
- 6 "(5)".
- 7 8. On page 9, lines 6 and 23, strike "IV, or VI" and
- 8 insert "or IV"; strike beginning with "On" in line 9 through "(6)"
- 9 in line 22; in line 26 strike "(7)" and insert "(6)"; and in line

10 28 strike "(8)" and insert "(7)".

11 9. On page 12, lines 14 through 18, strike the new  
12 matter and reinstate the stricken matter.

13 10. On page 13, reinstate the stricken matter beginning  
14 with "For" in line 6 through the first "district" in line 8; in  
15 line 11 after the stricken "system" insert "shall be considered to  
16 include all taxable property and all elementary and high school  
17 students within a school district"; reinstate the stricken matter  
18 beginning with "which" in line 11 through the period in line 12; in  
19 line 19 reinstate the stricken "(1)" through "in", after the  
20 reinstated "in" insert "subsection", and reinstate the stricken  
21 "(2)"; in line 20 reinstate the stricken "of this section, no" and  
22 strike the new matter; and reinstate the stricken matter in lines  
23 23 through 28.

24 11. On page 14, reinstate the stricken matter in lines 1  
25 through 15.

26 12. On page 18, reinstate the stricken matter in lines 7  
27 through 10 and 28.

1 13. On page 19, lines 1 and 3, reinstate the stricken  
2 matter except for the stricken "Class II, III, IV, or V"; and  
3 reinstate the stricken matter in lines 2, 4, and 5.

4 14. On page 24, line 15, strike the new matter.

5 15. On page 25, line 2, strike the new matter; reinstate  
6 the stricken matter beginning with "the" in line 4 through "and" in  
7 line 5; and in line 5 after the stricken "(7)" insert "(6)".

8 16. On page 26, lines 25 through 27, strike the new  
9 matter and reinstate the stricken matter.

10 17. On page 37, lines 15 through 28; and page 38, lines  
11 1 through 14, reinstate the stricken matter.

12 18. On page 54, line 28, after "the" insert  
13 "associated".

14 19. On page 55, strike beginning with "of" in line 1  
15 through "act" in line 3 and insert "thereof"; and in line 7 after  
16 the underscored comma insert "a Class VI district and the  
17 associated Class I districts or portions thereof or".

18 20. Amend the operative date and repealer sections,  
19 correct internal references, and renumber the remaining sections  
20 accordingly.

Senator Kremer filed the following amendment to LB 346:  
AM0383

(Amendments to Standing Committee amendments, AM0284)

1 1. Strike amendments 1 and 2 and insert the following  
2 amendments:

3 "1. Strike original section 11 and insert the following  
4 new section:

5 'Sec. 11. The changes made in sections 77-5201, 77-5203,  
6 77-5208, 77-5209, and 77-5211 to 77-5213 by this legislative bill  
7 shall become operative for all credits earned in tax years

8 beginning or deemed to begin on and after January 1, 2006, under  
 9 the Internal Revenue Code of 1986, as amended. For all credits  
 10 earned in tax years beginning or deemed to begin, prior to January  
 11 1, 2006, under the code, the provisions of the Beginning Farmer Tax  
 12 Credit Act as they existed prior to such date shall apply.'

13 2. On page 4, line 7, strike 'section 6' and insert  
 14 'sections 6 and 11'.

15 3. On page 6, line 22, strike 'and', show as stricken  
 16 and insert 'The board'; and in line 26 before the period insert  
 17 'and qualified beginning farmers and livestock producers as  
 18 eligible for the tax credit authorized by section 6 of this act'.

19 4. On page 8, line 10, strike beginning with 'Beginning'  
 20 through 'a' and insert 'A'; and in line 22 strike beginning with  
 21 'Beginning' through 'an', show as stricken, and insert 'An'.

22 5. On page 10, line 28, strike the new matter and  
 23 reinstate the stricken matter."

1 2. Renumber the remaining amendment accordingly.

Senator Flood filed the following amendment to LB 126:  
 AM0418

1 1. Strike original section 5 and insert the following  
 2 new section:

3 "Sec. 4. (1) Class I cooperative means two or more Class  
 4 I school districts participating in a cooperative formed pursuant  
 5 to an interlocal agreement under the Interlocal Cooperation Act  
 6 prior to September 10, 2005. The interlocal agreement shall:

7 (a) Provide for a board composed of school board members,  
 8 with at least one school board member from each member Class I  
 9 school district; and

10 (b) Require the cooperative board to negotiate a common  
 11 salary schedule for the teachers in all member Class I school  
 12 districts.

13 Member Class I school districts shall not have territory  
 14 that is a part of a Class VI system. The member Class I school  
 15 district shall have had a combined fall membership for 2004-05 of  
 16 students who were residents of the Class I school district in which  
 17 they were enrolled of at least seventy-five students.

18 (2) On or before October 1, 2005, the cooperative board  
 19 of each Class I cooperative shall certify to the Department of  
 20 Education and each high school district with which property of  
 21 member Class I school districts is affiliated an affidavit that the  
 22 requirements of subsection (1) of this section have been met to  
 23 form a Class I cooperative and a list of the member Class I school  
 24 districts.

1 (3) All Class I school districts that are not members of  
 2 a Class I cooperative as of September 10, 2005, shall be subject to  
 3 sections 1, 2, and 3 of this act."

4 2. On page 3, lines 2 and 27; page 4, line 16; and page  
 5 6, line 9, after "district" insert "that is not a member of a Class

- 6 I cooperative as defined in section 4 of this act".  
 7 3. On page 5, line 4, after "that" insert "is not a  
 8 member of a Class I cooperative as defined in section 4 of this act  
 9 and".  
 10 4. On page 6, line 18, after "board" insert "of a  
 11 district that is not a member of a Class I cooperative as defined  
 12 in section 4 of this act".  
 13 5. On page 12, line 14, after "twelve" insert "except as  
 14 provided in section 4 of this act".  
 15 6. On page 13, line 3, strike "By" and insert "Except as  
 16 provided in section 4 of this act, by".  
 17 7. On page 20, lines 18 and 19, strike the new matter  
 18 and insert "pursuant to this section".  
 19 8. On page 49, lines 21 and 28, strike "section 2" and  
 20 insert "section 2, 3, 5, or 6".  
 21 9. On page 54, line 28, after the comma insert "(i)" and  
 22 after "and" insert "both".  
 23 10. On page 55, line 1, strike "district" and insert  
 24 "districts"; in lines 3 and 6 after "2" insert "or 3"; in line 3  
 25 after the first "or" insert "and (ii)"; in line 6 after "act"  
 26 insert "and the associated Class I districts that are members of a  
 27 Class I cooperative as defined in section 4 of this act"; and in  
 1 line 8 after "district" insert "and any affiliated Class I  
 2 districts or portions of Class I districts that are members of a  
 3 Class I cooperative as defined in section 4 of this act".  
 4 11. On page 74, line 9, strike "5,"; and in line 12  
 5 strike "sections 79-102 and" and insert "section".  
 6 12. Renumber the remaining sections accordingly.

Senator Bourne filed the following amendment to LB 533:

FA22

Amend AM0238

On page 37 by striking lines 8 through 20.

## REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Darnall, Daniel R. - Commission for the Deaf and Hard of Hearing - Health and Human Services

Decker, Brenda L. - Chief Information Officer - Government, Military and Veterans Affairs

(Signed) Pat Engel, Chairperson  
 Legislative Council, Executive Board

## **BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 66A.** Introduced by D. Pederson, 42.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 66, Ninety-ninth Legislature, First Session, 2005.

**LEGISLATIVE BILL 346A.** Introduced by Kremer, 34.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 346, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

## **ANNOUNCEMENT**

Senator Pahls designates LB 527 as his priority bill.

## **STANDING COMMITTEE REPORT** **Nebraska Retirement Systems**

**LEGISLATIVE BILL 503.** Placed on General File as amended.  
(Standing Committee amendment, AM0380, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Elaine Stuhr, Chairperson

## **UNANIMOUS CONSENT - Add Cointroducers**

Senator Kopplin asked unanimous consent to have his name added as cointroducer to LB 64. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LBs 540 and 645. No objections. So ordered.

Senator Brown asked unanimous consent to have her name added as cointroducer to LB 755. No objections. So ordered.

## **VISITORS**

Visitors to the Chamber were Gary Schultz from Lexington; former Senator Floyd Vrtiska from Table Rock; and 20 home educated eleventh- and twelfth-grade students and teacher from Lincoln and Omaha.

**ADJOURNMENT**

At 12:01 p.m., on a motion by Senator Foley, the Legislature adjourned until 9:00 a.m., Tuesday, February 15, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**TWENTY-EIGHTH DAY - FEBRUARY 15, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**TWENTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, February 15, 2005

**PRAYER**

The prayer was offered by Pastor Paul Coen, Luther Memorial Lutheran Church, Syracuse.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Landis who was excused; and Senators Beutler, Byars, Combs, Foley, Price, and Wehrbein who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-seventh day was approved.

**NOTICE OF COMMITTEE HEARING**

**Appropriations**  
Room 1003

LB 250      Friday, February 25, 2005      1:30 p.m.

Friday, February 25, 2005      1:30 p.m.

AGENCY 16 - Department of Revenue

AGENCY 93 - Tax Equalization and Review Commission

AGENCY 96 - Department of Property Assessment and Taxation

(Signed) Don Pederson, Chairperson

**MOTIONS - Approve Appointments**

Senator Schimek moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 498:

Department of Aeronautics

Stuart MacTaggart

Voting in the affirmative, 35:

Aguilar	Engel	Hudkins	Langemeier	Raikes
Baker	Erdman	Janssen	Louden	Schimek
Bourne	Fischer	Jensen	McDonald	Schrock
Connealy	Flood	Johnson	Mines	Smith
Cornett	Friend	Kopplin	Pahls	Stuhr
Cudaback	Heidemann	Kremer	Pedersen, Dw.	Stuthman
Cunningham	Howard	Kruse	Pederson, D.	Synowiecki

Voting in the negative, 0.

Present and not voting, 7:

Brashear	Burling	Preister	Thompson
Brown	Chambers	Redfield	

Excused and not voting, 7:

Beutler	Combs	Landis	Wehrbein
Byars	Foley	Price	

The appointment was confirmed with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

Senator Schimek moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 498:

State Personnel Board  
Samuel Seever

Voting in the affirmative, 30:

Baker	Cunningham	Howard	Kruse	Redfield
Bourne	Engel	Hudkins	Louden	Schimek
Burling	Erdman	Janssen	McDonald	Smith
Connealy	Flood	Johnson	Pahls	Stuhr
Cornett	Friend	Kopplin	Pedersen, Dw.	Stuthman
Cudaback	Heidemann	Kremer	Raikes	Synowiecki

Voting in the negative, 0.

Present and not voting, 13:

Aguilar	Chambers	Jensen	Pederson, D.	Thompson
Brashear	Fischer	Langemeier	Preister	
Brown	Foley	Mines	Schrock	

Excused and not voting, 6:

Beutler	Combs	Price
Byars	Landis	Wehrbein

The appointment was confirmed with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

### **GENERAL FILE**

**LEGISLATIVE BILL 126.** Senator McDonald renewed her pending amendment, AM0086, found on page 499 and considered on pages 509 and 510.

Senator McDonald withdrew her amendment.

Senator Loudon withdrew his pending amendment, AM0075, found on page 502.

Senator Beutler withdrew his pending amendments, FA19 and FA20, found on page 503.

Senator Smith withdrew his pending amendment, FA21, found on page 503.

Senator Fischer withdrew her pending amendment, AM0400, found on page 510.

Senator Burling withdrew his pending amendment, AM0415, found on page 510.

Senator Fischer withdrew her pending amendment, AM0100, found on page 511.

Senator Flood withdrew his pending amendment, AM0418, found on page 513.

Advanced to E & R for review with 33 ayes, 8 nays, 6 present and not voting, and 2 excused and not voting.

### **STANDING COMMITTEE REPORTS** **Banking, Commerce and Insurance**

**LEGISLATIVE BILL 693.** Placed on General File.

**LEGISLATIVE BILL 97.** Placed on General File as amended.

Standing Committee amendment to LB 97:

AM0172

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 76-239, Reissue Revised Statutes of

4 Nebraska, is amended to read:

5 76-239. (1) After the expiration of ten years from the  
6 date of maturity of any debt, or other obligation, secured by a  
7 deed of trust, mortgage, or real estate sale contract, as stated in  
8 or ascertainable from the record of such deed of trust, mortgage,  
9 or contract; and, in cases where the date of such maturity cannot  
10 be ascertained from such record, after the expiration of ~~twenty~~  
11 thirty years from the date of such deed of trust, mortgage, or  
12 contract, the record of any deed of trust, mortgage, or real estate  
13 contract that has been recorded shall cease to be notice of the  
14 existence and lien of such deed of trust, mortgage, or contract as  
15 to subsequent encumbrancers and purchasers for value whose deeds,  
16 deeds of trust, mortgages, or other instruments shall be thereafter  
17 executed and recorded. Such deed of trust, mortgage, or contract  
18 shall be conclusively presumed to have been fully paid and  
19 discharged; and the record thereof shall thereupon cease to be or  
20 constitute notice of the existence or lien thereof and shall be  
21 wholly void; and thereafter shall not be construed to be any part  
22 of the public records in the office of the register of deeds as  
23 against subsequent purchasers and encumbrancers for value.

24 (2) Prior to the termination of the record and notice as  
1 ~~hereinbefore provided pursuant to subsection (1) of this section,~~  
2 the owner and holder of the deed of trust, mortgage, or contract  
3 may file for record with the register of deeds an affidavit to the  
4 effect that ~~said~~ the deed of trust, mortgage, or contract is unpaid  
5 and is still a valid and subsisting lien. Upon the filing of such  
6 affidavit the record of the deed of trust, mortgage, or contract  
7 shall continue to exist; and be valid as notice of the existence of  
8 such deed of trust, mortgage, or contract and of any lien thereof,  
9 for an additional period of ten years from the date of the filing  
10 of such affidavit. The owner and holder of such deed of trust,  
11 mortgage, or contract may alternatively file for record with the  
12 register of deeds a duly executed written extension agreement  
13 thereof; in which event the record of the deed of trust, mortgage,  
14 or contract shall continue to exist; and be valid as notice of the  
15 existence of such deed of trust, mortgage, or contract and of any  
16 lien thereof, for an additional period of ten years from the  
17 maturity of the deed of trust, mortgage, or contract debt as shown  
18 by the recorded extension agreement.

19 (3) Such periods of notice may be successively extended  
20 for additional periods. ~~However, ; PROVIDED, that~~ this section  
21 shall not be ~~so~~ construed as to extend the time within which an  
22 action on any deed of trust, mortgage, or contract may be  
23 instituted, or in any manner to alter or amend the time within  
24 which any action on a deed of trust, mortgage, or contract may be  
25 brought under the general laws of this state. ~~This ; AND PROVIDED~~  
26 ~~FURTHER, that the provisions of this section also~~ shall not apply  
27 to mortgages or deeds of trust and instruments supplementary or  
1 amendatory thereto covering real estate as well as personal

2 property, such property constituting a portion of property used in  
 3 carrying on the business of a public utility or a gas or oil  
 4 pipeline system, and executed to secure the payment of money. The  
 5 lien of ~~such~~ mortgages or deeds of trust and supplements and  
 6 ~~amendments and supplements~~ thereto shall continue in force and  
 7 effect as to any interest of the mortgagor in the real estate  
 8 described therein, together with personal property, without the  
 9 necessity of such renewal affidavit or extension agreement being  
 10 made and filed, and notwithstanding that the same may have been on  
 11 file for the period of time set out in this section. The ;  
 12 ~~PROVIDED, that the~~ mortgage or deed of trust or instruments  
 13 supplementary or amendatory thereto ~~discloses~~ shall disclose that  
 14 the mortgagor or grantor therein is then carrying on the business  
 15 of a public utility or a gas or oil pipeline system or the  
 16 mortgagor or grantor has filed an affidavit to that effect for  
 17 record with the register of deeds.  
 18 (4) It is the intent of the Legislature that the changes  
 19 made by this legislative bill shall not affect or alter the status  
 20 of any deed of trust, mortgage, or real estate sales contract  
 21 rendered void prior to the effective date of this act.  
 22 Sec. 2. Original section 76-239, Reissue Revised  
 23 Statutes of Nebraska, is repealed."

(Signed) Mick Mines, Chairperson

### **Natural Resources**

**LEGISLATIVE BILL 154.** Indefinitely postponed.

**LEGISLATIVE BILL 189.** Indefinitely postponed.

(Signed) Ed Schrock, Chairperson

### **Banking, Commerce and Insurance**

The Banking, Commerce and Insurance Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

John Munn - Department of Banking and Finance

VOTE: Aye: Senators Mines, Redfield, Flood, Jensen, Johnson, Langemeier, Loudon, Pahls. Nay: None. Absent: None.

(Signed) Mick Mines, Chairperson

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 150A.** Introduced by Kremer, 34.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 150, Ninety-ninth Legislature, First Session, 2005.

**AMENDMENT - Print in Journal**

Senator Chambers filed the following amendment to LB 96:  
AM0434

(Amendments to E & R amendments, AM7005)

- 1 1. Insert the following new section:
- 2 "Sec. 2. Section 85-507, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 85-507. The spouse and children of any member of the
- 5 Nebraska National Guard who dies while serving in the active
- 6 service of the state shall be entitled to a credit of one hundred
- 7 percent of the tuition charges in any state-supported university,
- 8 college, or community college, ~~or any independent, not-for-profit,~~
- 9 ~~regionally accredited college or university in this state, except~~
- 10 ~~that any spouse or child who attends an independent,~~
- 11 ~~not-for-profit, regionally accredited college or university in this~~
- 12 ~~state shall receive a credit in an amount no higher than that~~
- 13 ~~spouse or child would receive if he or she attended the University~~
- 14 ~~of Nebraska-Lincoln.~~ Such tuition credit shall be for any
- 15 undergraduate course of education not exceeding four years, except
- 16 that no credit shall be granted to the spouse after the tenth
- 17 anniversary of the member's death and no credit shall be granted to
- 18 a child after such child's twenty-fifth birthday. All persons
- 19 eligible for tuition credit under this section shall obtain a
- 20 certificate of eligibility from the Adjutant General of the
- 21 Nebraska National Guard and present such certificate to the
- 22 educational institution."
- 23 2. On page 1, strike beginning with "or" in line 7
- 1 through "university" in line 8 and show as stricken; strike
- 2 beginning with the comma in line 10 through the period in line 14,
- 3 show as stricken, and insert an underscored period; in line 14
- 4 strike "section 85-505" and insert "sections 85-505 and 85-507";
- 5 and in line 15 strike "is" and insert "are".
- 6 3. Renumber the remaining section accordingly.

**GENERAL FILE**

**LEGISLATIVE BILL 533.** Title read. Considered.

The Standing Committee amendment, AM0238, printed separately and referred to on page 447, was considered.

## **PRESIDENT SHEEHY PRESIDING**

Senator Bourne renewed his pending amendment, FA22, found on page 514, to the Standing Committee amendment.

The Bourne amendment was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Pending.

## **ANNOUNCEMENTS**

The General Affairs Committee designates LB 563 as its priority bill.

Senator Flood designates LB 217 as his priority bill.

Senator Price designates LB 146 as her priority bill.

## **RESOLUTION**

**LEGISLATIVE RESOLUTION 42.** Introduced by Howard, 9; Brown, 6; Jensen, 20; Cornett, 45; Preister, 5; Thompson, 14.

WHEREAS, Susie Buffett was a strong advocate for the poor and disadvantaged of the world, helping to raise millions for third world debt relief, AIDS, and Africa; and

WHEREAS, Susie Buffett was a humanitarian who spoke for disadvantaged women around the world, establishing programs across the globe; and

WHEREAS, as President of the Buffett Foundation oversaw the distribution of funds to hospitals, universities, and teachers across the nation; and

WHEREAS, her generous contributions to the Buffett Foundation upon her death will possibly produce donations of \$150 million a year and help people across Nebraska, the United States, and the world; and

WHEREAS, Susie Buffett is celebrated for her work in social justice, working for civil rights, low income housing, and educational organizations throughout the 1960s; and

WHEREAS, according to Omaha Central High School's Hall of Fame, Susie Buffett's leadership was responsible, more than any other parent, for keeping Central "central". Her work in lobbying the school board and raising money from the business community helped Central maintain its position as a quality institution; and

WHEREAS, Buffett left an outstanding legacy of philanthropy in Omaha, contributing both financially and emotionally to Girls Inc., a developmental center for at-risk girls in north Omaha and Omaha Central High School,

promoting Nebraska values to generations of children.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature of the State of Nebraska honors the memory of Susie Buffett and her many achievements for the betterment of humankind; and

2. That a copy of this resolution be sent to the Buffett family.

Laid over.

### AMENDMENTS - Print in Journal

Senator Loudon filed the following amendment to LB 54:  
AM0433

- 1 1. Insert the following new sections:
- 2 "Sec. 6. (1) Notwithstanding any provision of section
- 3 37-407 to the contrary, a Nebraska resident who purchased a
- 4 hunting, fishing, or combination hunting and fishing permit and who
- 5 was deployed out of state with a branch of the United States
- 6 military shall be entitled to receive a discounted permit on a
- 7 one-time basis upon returning to the state if the resident:
- 8 (a) Provides to the commission satisfactory proof of
- 9 purchase of the original permit and evidence of the resident's
- 10 deployment out of state during the period of the original permit;
- 11 and
- 12 (b) Was deployed out of state for more than one-half of
- 13 the period of the original permit.
- 14 (2) The commission shall establish a fee of five dollars
- 15 for the discounted permit. The commission may authorize electronic
- 16 issuance of the discounted permit.
- 17 (3)(a) Notwithstanding any provision of section 37-407 to
- 18 the contrary, a Nebraska resident who purchased a big game permit
- 19 and who was deployed out of state with a branch of the United
- 20 States military for the entire season of the hunt and who was
- 21 unable to use the permit shall be entitled to receive a discounted
- 22 permit on a one-time basis upon returning to the state if the
- 23 resident provides to the commission satisfactory proof of purchase
- 24 of the original permit and evidence of the resident's deployment.
- 1 (b) For purposes of this subsection, big game means
- 2 antelope, deer, elk, mountain sheep, and wild turkeys.
- 3 (4) The commission may adopt and promulgate rules and
- 4 regulations that set forth the procedures for applying for, and the
- 5 issuance of, the discounted permit.
- 6 Sec. 7. Section 37-201, Reissue Revised Statutes of
- 7 Nebraska, is amended to read:
- 8 37-201. Sections 37-201 to 37-811 and section 6 of this
- 9 act shall be known and may be cited as the Game Law.
- 10 Sec. 8. Section 37-407, Reissue Revised Statutes of
- 11 Nebraska, is amended to read:

12 37-407. ~~The~~ Except as provided in section 6 of this act,  
 13 the commission shall establish fees pursuant to section 37-327 to  
 14 be paid to the state for resident and nonresident hunting permits,  
 15 annual fishing permits, three-day fishing permits, combined fishing  
 16 and hunting permits, and fur-harvesting permits, as follows:  
 17 (1) Resident fees shall be (a) not less than eleven  
 18 dollars and not more than thirteen dollars for hunting, (b) not  
 19 less than fifteen dollars and not more than seventeen dollars and  
 20 fifty cents for fishing, (c) not less than ten dollars and not more  
 21 than eleven dollars and fifty cents for a three-day fishing permit,  
 22 (d) not less than twenty-five dollars and not more than twenty-nine  
 23 dollars for both fishing and hunting, and (e) not less than fifteen  
 24 dollars and not more than twenty dollars for fur harvesting; and  
 25 (2) Nonresident fees shall be (a) not less than resident  
 26 fees and not more than two hundred sixty dollars for a period of  
 27 time specified by the commission for fur harvesting one thousand or  
 1 less fur-bearing animals and not less than fifteen dollars  
 2 additional and not more than seventeen dollars and fifty cents  
 3 additional for each one hundred or part of one hundred fur-bearing  
 4 animals harvested, (b)(i) for persons sixteen years of age and  
 5 older, not less than sixty-seven dollars and not more than eighty  
 6 dollars for hunting and (ii) for persons under sixteen years of  
 7 age, not less than the fee required pursuant to subdivision (1)(a)  
 8 of this section for hunting, (c) not less than fourteen dollars and  
 9 not more than sixteen dollars and fifty cents for a three-day  
 10 fishing permit, and (d) not less than forty dollars and not more  
 11 than forty-nine dollars and fifty cents for an annual fishing  
 12 permit."  
 13 2. Amend the operative date and repealer provisions so  
 14 that the sections added by this amendment become operative on July  
 15 1, 2004.  
 16 3. Renumber the remaining sections and correct internal  
 17 references accordingly.

Senator Synowiecki filed the following amendment to LB 40:  
 AM0299

1 1. Insert the following new section:  
 2 "Section 1. Section 58-706, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 58-706. The following activities are eligible for  
 5 assistance from the Affordable Housing Trust Fund:  
 6 (1) New construction, rehabilitation, or acquisition of  
 7 housing to assist low-income and very low-income families and  
 8 adults with serious mental illness;  
 9 (2) Matching funds for new construction, rehabilitation,  
 10 or acquisition of housing units to assist low-income and very  
 11 low-income families and adults with serious mental illness;  
 12 (3) Technical assistance, design and finance services,  
 13 and consultation for eligible nonprofit community or

- 14 neighborhood-based organizations involved in the creation of  
15 affordable housing;  
16 (4) Matching funds for operating costs for housing  
17 assistance groups or organizations when such grant or loan will  
18 substantially increase the recipient's ability to produce  
19 affordable housing, including such housing for adults with serious  
20 mental illness;  
21 (5) Mortgage insurance guarantees for eligible projects;  
22 (6) Acquisition of housing units for the purpose of  
23 preservation of housing to assist low-income or very low-income  
24 families;  
1 (7) Projects making affordable housing more accessible to  
2 families with elderly members or members who have disabilities;  
3 (8) Projects providing housing in areas determined by the  
4 Department of Economic Development to be of critical importance for  
5 the continued economic development and economic well-being of the  
6 community and where, as determined by the department, a shortage of  
7 affordable housing exists;  
8 (9) Infrastructure projects necessary for the development  
9 of affordable housing;  
10 (10) Downpayment and closing cost assistance;  
11 (11) Housing education programs developed in conjunction  
12 with affordable housing projects. The education programs must be  
13 directed toward:  
14 (a) Preparing potential home buyers to purchase  
15 affordable housing and postpurchase education;  
16 (b) Target audiences eligible to utilize the services of  
17 housing assistance groups or organizations; and  
18 (c) Developers interested in the rehabilitation,  
19 acquisition, or construction of affordable housing; and  
20 (12) Rental assistance for adults with serious mental  
21 illness."  
22 2. On page 5, line 25, after "sections" insert  
23 "58-706,".  
24 3. Renumber the remaining sections accordingly.

Senator Jensen filed the following amendment to LB 175:  
AM0227

- 1 1. Strike original sections 2 to 5 and all amendments  
2 thereto and insert the following new section:  
3 "Sec. 2. Original section 71-1,107.30, Reissue Revised  
4 Statutes of Nebraska, is repealed."

Senator Jensen filed the following amendment to LB 176:  
AM0341

- 1 1. On page 3, line 12, strike "deemed", show as  
2 stricken, and insert "construed"; strike the new matter in lines 17  
3 through 20; in line 21 reinstate the stricken matter and strike the  
4 new matter; strike beginning with the underscored period in line 23

5 through "if" in line 24; and in line 24 reinstate the stricken  
6 matter.

### **VISITORS**

Visitors to the Chamber were Youth Leadership Tomorrow from Hall County; sixth-, seventh-, and eighth-grade students and teachers from District 22 School, Dawson; and Wendall Gaston from Sidney.

### **ADJOURNMENT**

At 11:59 a.m., on a motion by Senator Smith, the Legislature adjourned until 9:00 a.m., Wednesday, February 16, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**TWENTY-NINTH DAY - FEBRUARY 16, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**TWENTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, February 16, 2005

**PRAYER**

The prayer was offered by Pastor Jose Flores, Zion Peace Lutheran Church, Omaha.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brown, Byars, Combs, Cunningham, Mines, Raikes, and Thompson who were excused until they arrive.

**SPEAKER BRASHEAR PRESIDING**

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-eighth day was approved.

**STANDING COMMITTEE REPORTS  
Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 451.** Placed on General File.

**LEGISLATIVE BILL 525.** Placed on General File.

**LEGISLATIVE BILL 167.** Placed on General File as amended.

Standing Committee amendment to LB 167:

AM0396

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. This act shall be known and may be cited as
- 4 the Nebraska Archaeological Resources Preservation Act.
- 5 Sec. 2. The Legislature hereby finds and declares that:
- 6 (1) The resource base of archaeological sites is being
- 7 threatened at an increasing rate by agricultural, urban,
- 8 commercial, transportation, governmental, and industrial

9 development; and

10 (2) Archaeological sites represent an important public  
11 resource embodying the record of our state's cultural heritage.

12 Sec. 3. For purposes of the Nebraska Archaeological

13 Resources Preservation Act:

14 (1) Archaeological resource means any material object of  
15 past human life or activities that is of archaeological interest.  
16 Such objects include, but are not limited to, pottery, basketry,  
17 bottles, weapons, tools, structures or portions of structures,  
18 dwellings, rock paintings, rock carvings, intaglios, graves, human  
19 skeletal materials, or any portion or piece of any of such items.

20 Nonfossilized and fossilized paleontological specimens, or any  
21 portion or piece thereof, shall not be considered archaeological  
22 resources unless found in an archaeological context. No object  
23 shall be treated as an archaeological resource under this  
24 subdivision unless such object is determined to be at least fifty

1 years of age;

2 (2) Archaeological site means a place or location where  
3 archaeological resources are found;

4 (3) Master archaeological site file means the records  
5 inventory of all known Nebraska archaeological sites maintained by  
6 the Nebraska State Historical Society;

7 (4) National Register of Historic Places means the  
8 register of districts, sites, buildings, structures, and objects  
9 significant in American history, architecture, archaeology,  
10 engineering, and culture, maintained by the Secretary of the  
11 Interior under the authority of the federal Historic Sites,  
12 Buildings, and Antiquities Act, 16 U.S.C. 462(b), and the National  
13 Historic Preservation Act, 16 U.S.C. 470a(a)(1)(A);

14 (5) State agency means any division, department, board,  
15 bureau, commission, or agency of the State of Nebraska; and

16 (6) Undertaking means a project, activity, or program  
17 funded in whole or in part under the jurisdiction of a state  
18 agency.

19 Sec. 4. (1) There is hereby established the State  
20 Archaeology Office which shall be a division within the Nebraska  
21 State Historical Society. The purpose of the office shall be to  
22 coordinate and encourage appropriate archaeological undertakings  
23 and to preserve archaeological resources. The State Archaeology  
24 Office may adopt and promulgate rules and regulations to carry out  
25 the purposes of the Nebraska Archaeological Resources Preservation  
26 Act.

27 (2) The State Archaeology Office shall be headed by the  
1 State Archaeologist. The State Archaeologist shall be a graduate  
2 of a recognized college or university with a graduate degree in  
3 archaeology or anthropology and shall have sufficient practical  
4 experience and knowledge of archaeology to carry out the purposes  
5 of the act.

6 (3) The State Archaeology Office shall:

- 7 (a) Promote development of archaeological resources for  
8 educational, cultural, tourism, and scientific purposes;
- 9 (b) Support popular and avocational interest in  
10 archaeological resources through field trips, demonstrations,  
11 seminars, and excavations throughout the state;
- 12 (c) Conduct a program of locating, identifying,  
13 quantifying, and assessing the significance of the state's  
14 archaeological resources;
- 15 (d) Maintain the master archaeological site file;
- 16 (e) Advise state agencies, political subdivisions,  
17 nongovernmental organizations, commercial and business interests,  
18 private property owners, individuals, and others as to the  
19 provisions and requirements of the act;
- 20 (f) Serve as the liaison office in transactions dealing  
21 with archaeological resources between state agencies and between  
22 the state and the federal government;
- 23 (g) Cooperate with state agencies and others in  
24 overseeing the execution of undertakings required by the act;
- 25 (h) Serve as the liaison office between state agencies  
26 and Indian tribes, the Commission on Indian Affairs, or other  
27 constituent groups culturally affiliated with archaeological sites  
1 involved in undertakings;
- 2 (i) Maintain a list of archaeologists qualified to  
3 conduct research projects required by the act;
- 4 (j) Maintain a permanent repository and electronic data  
5 base of published and unpublished sources on the archaeological  
6 resources of the state;
- 7 (k) Prepare, publish, and distribute for professional use  
8 and public education reports, bulletins, pamphlets, maps, and other  
9 products necessary to achieve the purposes of the act;
- 10 (l) Implement a program of emergency salvage archaeology,  
11 which includes surveys and either salvage or preservation of  
12 archaeological resources imperiled by development activities or  
13 natural forces;
- 14 (m) Administer and manage grants, bequests, devises, tax  
15 incentives, and easements of property to the state for the purposes  
16 of preserving archaeological sites and resources; and
- 17 (n) Ensure the long-term curation and management of  
18 collections and records resulting from undertakings within the  
19 state;
- 20 (o) Identify properties included in the National Register  
21 of Historic Places that are endangered, and coordinate or  
22 facilitate the purchase and maintenance of such properties by other  
23 public or private agencies; and
- 24 (p) Conduct all other activities necessary to carry out  
25 the purposes of the act.
- 26 Sec. 5. (1) Except as provided in subsection (2) of this  
27 section, the head of any state agency having jurisdiction over a  
1 proposed state or state-funded undertaking, which has potential to

2 affect archaeological resources or sites, shall, prior to the  
3 approval of the expenditure of any state funds on the undertaking,  
4 notify the State Archaeology Office of the undertaking and  
5 cooperate with the office to identify and develop measures to  
6 mitigate the effect of the undertaking on any archaeological site  
7 or resource that is included in or eligible for inclusion in the  
8 National Register of Historic Places.

9 (2) The Department of Roads shall be exempt from the  
10 provisions of the Nebraska Archaeological Resources Preservation  
11 Act as long as a cooperative agreement exists between the  
12 Department of Roads and the Nebraska State Historical Society which  
13 ensures that all highway construction projects meet federal  
14 historic preservation legislation and regulations, and such federal  
15 preservation legislation and regulations fulfill or exceed the  
16 objectives and standards of the act.

17 (3) Nothing in this section shall be construed to abridge  
18 the rights of private property owners and in no case shall a  
19 private property owner be required to pay for activities undertaken  
20 by the State Archaeology Office.

21 Sec. 6. The State Archaeology Office may accept, use,  
22 disburse, and administer all funds or other property, services, and  
23 money allotted to it for purposes of the Nebraska Archaeological  
24 Resources Preservation Act and may prescribe the conditions under  
25 which such funds, property, services, or money will be accepted and  
26 administered.

27 Sec. 7. (1) Any person who knowingly and willfully  
1 appropriates, excavates, injures, or destroys any archaeological  
2 resource on public land without written permission from the State  
3 Archaeology Office is guilty of a Class II misdemeanor. All  
4 articles and materials illegally taken and all money and materials  
5 derived from the sale or trade of the same shall be forfeited to  
6 the state.

7 (2) When the State Archaeology Office has cause to  
8 believe that a person has engaged in or is engaging in any unlawful  
9 conduct prescribed in this section, it may apply for and obtain, in  
10 an action in the appropriate district court of this state, a  
11 temporary restraining order or injunction, or both, pursuant to the  
12 Nebraska rules of civil procedure prohibiting such person from  
13 continuing such practices, or engaging therein, or doing any act in  
14 furtherance thereof.

15 Sec. 8. No person shall enter or attempt to enter upon  
16 the lands of another without permission and intentionally  
17 appropriate, excavate, injure, or destroy any archaeological  
18 resource or any archaeological site. Any person committing such  
19 act is guilty of a Class II misdemeanor. All articles and material  
20 illegally taken and all money and materials derived from the sale  
21 or trade of the same shall be forfeited to the private property  
22 owner.

23 Sec. 9. The Nebraska State Historical Society may use

24 General Fund appropriations to match other funds, grants, or money  
 25 received to carry out the Nebraska Archaeological Resources  
 26 Preservation Act.

27 Sec. 10. The State Archaeology Cash Fund is hereby  
 1 created. The fund may be used to carry out the purposes of the  
 2 Nebraska Archaeological Resources Preservation Act. Any money in  
 3 the fund available for investment shall be invested by the state  
 4 investment officer pursuant to the Nebraska Capital Expansion Act  
 5 and the Nebraska State Funds Investment Act."

**LEGISLATIVE BILL 35.** Indefinitely postponed.

**LEGISLATIVE BILL 74.** Indefinitely postponed.

**LEGISLATIVE BILL 233.** Indefinitely postponed.

**LEGISLATIVE BILL 290.** Indefinitely postponed.

**LEGISLATIVE BILL 408.** Indefinitely postponed.

**LEGISLATIVE BILL 477.** Indefinitely postponed.

**LEGISLATIVE BILL 581.** Indefinitely postponed.

**LEGISLATIVE BILL 591.** Indefinitely postponed.

**LEGISLATIVE BILL 685.** Indefinitely postponed.

(Signed) DiAnna R. Schimek, Chairperson

## **NOTICE OF COMMITTEE HEARING**

### **Appropriations**

Room 1524

LB 746      Monday, February 28, 2005      1:30 p.m.

Monday, February 28, 2005      1:30 p.m.

AGENCY 5 - Supreme Court and State Court Administrator

AGENCY 15 - Board of Pardons and Board of Parole

AGENCY 64 - State Patrol

(Signed) Don Pederson, Chairperson

## **RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR 38 was adopted.

## **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the  
 Speaker signed the following: LR 38.

## **SENATOR CUDABACK PRESIDING**

## **GENERAL FILE**

**LEGISLATIVE BILL 533.** The Standing Committee amendment,

AM0238, printed separately and referred to on page 447 and considered on page 522, as amended, was renewed.

The Standing Committee amendment, as amended, was adopted with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

## **NOTICE OF COMMITTEE HEARINGS**

### **Judiciary Room 1113**

LB 43	Wednesday, February 23, 2005	1:30 p.m.
LB 464	Wednesday, February 23, 2005	1:30 p.m.
LB 510	Wednesday, February 23, 2005	1:30 p.m.
LB 592	Wednesday, February 23, 2005	1:30 p.m.
LB 621	Wednesday, February 23, 2005	1:30 p.m.
LB 759	Wednesday, February 23, 2005	1:30 p.m.
LB 4	Thursday, February 24, 2005	1:30 p.m.
LB 269	Thursday, February 24, 2005	1:30 p.m.
LB 504	Thursday, February 24, 2005	1:30 p.m.
LB 505	Thursday, February 24, 2005	1:30 p.m.
LB 714	Thursday, February 24, 2005	1:30 p.m.
LB 730	Thursday, February 24, 2005	1:30 p.m.
LB 218	Friday, February 25, 2005	1:30 p.m.
LB 280	Friday, February 25, 2005	1:30 p.m.
LB 632	Friday, February 25, 2005	1:30 p.m.
LB 633	Friday, February 25, 2005	1:30 p.m.
LB 724	Friday, February 25, 2005	1:30 p.m.

(Signed) Patrick J. Bourne, Chairperson

### **GENERAL FILE**

**LEGISLATIVE BILL 499.** Title read. Considered.

Advanced to E & R for review with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 150.** Title read. Considered.

The Standing Committee amendment, AM0218, found on page 467, was considered.

**SENATOR JANSSEN PRESIDING**

**SENATOR CUDABACK PRESIDING**

The Standing Committee amendment was adopted with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 150A.** Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

**STANDING COMMITTEE REPORT**  
**Education**

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Stan Carpenter - Nebraska Educational Telecommunications Commission

VOTE: Aye: Senators Bourne, Byars, Howard, Kopplin, Raikes, Schrock, and Stuhr. Nay: None. Absent: Senator McDonald.

(Signed) Ron Raikes, Chairperson

**AMENDMENTS - Print in Journal**

Senator Brown filed the following amendment to LB 263:  
AM0450

- 1 1. Insert the following new section:
- 2 "Sec. 6. (1) The county assessor shall perform an
- 3 income-approach calculation for all rent-restricted housing
- 4 projects constructed to allow an allocation of low-income housing
- 5 tax credits under section 42 of the Internal Revenue Code and
- 6 approved by the Nebraska Investment Finance Authority when
- 7 considering the assessed valuation to place on the property for
- 8 each assessment year. The income-approach calculation shall be
- 9 consistent with any rules and regulations adopted and promulgated
- 10 by the Property Tax Administrator and shall comply with
- 11 professionally accepted mass appraisal techniques. Any low-income
- 12 housing tax credits authorized under section 42 of the Internal
- 13 Revenue Code that were granted to owners of the project shall not
- 14 be considered income for purposes of the calculation but may be
- 15 considered in determining the capitalization rate to be used when
- 16 capitalizing the income stream. The county assessor, in
- 17 determining the actual value of any specific property, may consider
- 18 other methods of determining value that are consistent with

19 professionally accepted mass appraisal methods described in section  
 20 77-112.

21 (2) The owner of a rent-restricted housing project shall  
 22 file a statement with the county assessor on or before October 1 of  
 23 each year that details income and expense data for the prior year,  
 24 a description of any land-use restrictions, and such other  
 1 information as the county assessor may require."

2 2. Renumber the remaining sections accordingly.

Senator Schimek filed the following amendment to LB 54:  
 AM0428

1 1. Insert the following new sections:  
 2 "Sec. 8. Section 48-227, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 48-227. Veterans who obtain passing scores on all parts  
 5 or phases of an examination shall have five ~~points~~ percent added to  
 6 their passing score if a claim for such ~~points~~ preference is made  
 7 on the application. An additional five ~~points~~ percent shall be  
 8 added to the passing score of any disabled veteran.  
 9 Sec. 9. Section 48-229, Reissue Revised Statutes of  
 10 Nebraska, is amended to read:  
 11 48-229. It shall be the duty of the Commissioner of  
 12 Labor to enforce the provisions of sections 48-225 to 48-231. The  
 13 commissioner shall act on preference claims as follows:  
 14 (1) When the employing agency and the claimant are in  
 15 disagreement or when there is doubt as to any preference claim, the  
 16 commissioner shall adjudicate the claim based on information given  
 17 in the claim, the documents supporting the claim, and information  
 18 which may be received from the armed forces of the United States,  
 19 the United States Department of Veterans Affairs, or the National  
 20 Archives and Records Administration;  
 21 (2) The commissioner shall allow a tentative ~~five-point~~  
 22 five-percent preference, pending receipt of additional information,  
 23 to any person who claims either a ~~five-point~~ five-percent or a  
 24 ~~ten-point~~ ten-percent preference but who furnishes insufficient  
 1 information to establish entitlement thereto at the time of  
 2 examination; and  
 3 (3) The commissioner shall decide appeals from preference  
 4 determinations made by any employing agency.  
 5 Sec. 37. The following section is outright repealed:  
 6 Section 81-1393, Reissue Revised Statutes of Nebraska."  
 7 2. On page 49, strike line 13 and insert "Sec. 34.  
 8 Sections 1 to 4, 10 to 13, 15, 21 to 27, and 29 to 35"; in line 14,  
 9 strike "to 33"; and in line 22, after "48-225," insert "48-227,  
 10 48-229,".  
 11 3. Renumber the remaining sections accordingly.

Senator Schimek filed the following amendment to LB 54:  
 (Amendment, AM0304, is printed separately and available in the Bill Room,

Room 1104.)

Senators Mines and Beutler filed the following amendment to LB 119:  
AM0398

- 1 1. Insert the following new section:
- 2 "Sec. 27. Section 44-7508.02, Reissue Revised Statutes
- 3 of Nebraska, is amended to read:
- 4 44-7508.02. (1) For policy forms to which this section
- 5 applies as provided in section 44-7508.01, each insurer shall file
- 6 with the director every policy form and related attachment rule and
- 7 every modification thereof which it proposes to use. For policy
- 8 forms to which this section applies, no insurer shall issue a
- 9 contract or policy except in accordance with the filings that are
- 10 in effect for such insurer as provided in the Property and Casualty
- 11 Insurance Rate and Form Act except as provided in subsection (10)
- 12 or (11) of this section or as provided by rules and regulations
- 13 adopted and promulgated pursuant to section 44-7514 or 44-7515.
- 14 (2) Every filing shall state its effective date, which
- 15 shall not be prior to the date that the director receives the
- 16 filing.
- 17 (3) Every policy form filing shall explain the intended
- 18 use of such policy forms. Filings shall include a list of policy
- 19 forms that will be replaced when the approval of a filing will
- 20 result in the replacement of previously approved policy forms. In
- 21 addition, insurers shall maintain listings of policy forms that
- 22 have been filed so that such listings can be provided upon request.
- 23 (4) The director shall acknowledge receipt of a policy
- 24 form filing as soon as practical. A review of the filing by the
- 1 director is not required to issue this acknowledgment, and
- 2 acknowledgment shall not constitute an approval by the director.
- 3 (5) The director may review a policy form filing at any
- 4 time after it has been made. The director shall review a policy
- 5 form filing for insurance covering risks of a personal nature,
- 6 including insurance for homeowners, tenants, private passenger
- 7 nonfleet automobiles, mobile homes, and other property and casualty
- 8 insurance for personal, family, or household needs, within thirty
- 9 days after the filing has been made. Following such review, the
- 10 director shall disapprove a filing that contains provisions,
- 11 exceptions, or conditions that: (a) Are unjust, unfair, ambiguous,
- 12 inconsistent, inequitable, misleading, deceptive, or contrary to
- 13 public policy; (b) are written so as to encourage the
- 14 misrepresentation of coverage; (c) fail to reasonably provide the
- 15 general coverage for policies of that type; (d) fail to comply with
- 16 the provisions or the intent of the laws of this state; or (e)
- 17 would provide coverage contrary to the public interest.
- 18 (6) If, within thirty days after its receipt, the
- 19 director disapproves a filing that requires disapproval pursuant to
- 20 subsection (5) of this section, then a written disapproval notice
- 21 shall be sent to the insurer. The disapproval notice shall specify

22 in what respects the filing fails to meet these requirements. Upon  
23 receipt of the notice of disapproval, the insurer shall cease use  
24 of the filing as soon as practical but may use the form for  
25 policies that have already been issued or when pending coverage  
26 proposals are outstanding.

27 (7) If, within thirty days after its receipt, the  
1 director requests additional information to complete review of a  
2 policy form filing, the thirty-day review period allowed in  
3 subsection (6) of this section shall commence on the date such  
4 information is received by the director. If a filer fails to  
5 furnish the required information within ninety days, the director  
6 may, by written notice sent to the insurer, deem the filing as  
7 withdrawn and not available for use.

8 (8) An insurer whose filing is disapproved pursuant to  
9 subsection (6) of this section may, within thirty days after  
10 receipt of a disapproval notice, request a hearing in accordance  
11 with section 44-7532.

12 (9) An insurer may authorize the director to accept  
13 policy form filings made on its behalf by an advisory organization.

14 (10)(a) Subject to the requirements of this subsection,  
15 policy forms unique in character and designed for and used with  
16 regard to an individual risk under common ownership subject to the  
17 rate filing provisions of section 44-7508 shall be exempt from  
18 subsection (1) of this section.

19 (b) At the earliest practical opportunity, but no later  
20 than thirty days after the effective date of the policy using  
21 unfiled provisions, the insurer shall provide the prospective  
22 insured with a written listing of the policy forms that have not  
23 been filed with the director. This requirement does not apply to  
24 renewals using the same unfiled policy forms.

25 (c) A policy form that has been used in this state or  
26 elsewhere by the insurer for another risk shall not be subject to  
27 the exemption provided by this subsection, except that an insurer  
1 may use a policy form previously developed for a single risk for a  
2 second risk if the policy form is filed within sixty days after its  
3 second usage.

4 (d) The exemption provided by this subsection shall not  
5 apply to policy forms that, prior to their use by the insurer, had  
6 been filed by an advisory organization in this state or had been  
7 filed by the insurer in any jurisdiction, regardless of whether  
8 approval was received.

9 (e) The director may by rule and regulation or by order  
10 make specific restrictions relating to the exemption provided by  
11 this subsection and may require the informational filing of policy  
12 forms subject to such exemption within a reasonable time after  
13 their use. Any such informational filings specifically relating to  
14 individual risks shall be confidential and may not be made public  
15 by the director except as may be compiled in summaries of such  
16 activity.

17 (11) The director may by rule and regulation suspend or  
18 modify the filing requirements of this section as to any type of  
19 insurance or class of risk for which policy forms cannot  
20 practicably be filed before they are used. The director may  
21 examine insurers as is necessary to ascertain whether any policy  
22 forms affected by such rules and regulations meet the standards  
23 contained in the Property and Casualty Insurance Rate and Form Act.

24 (12) If, at any time after the expiration of the review  
25 period provided by subsection (6) of this section or any extension  
26 thereof, the director finds that a policy form, attachment rule, or  
27 modification thereof does not meet or no longer meets the  
1 requirements of subsection (5) of this section, the director shall  
2 hold a hearing in accordance with section 44-7532.

3 (13) Any insured aggrieved with respect to any policy  
4 form filing subject to this section may make written application to  
5 the director for a hearing on such filing. The hearing application  
6 shall specify the grounds to be relied upon by the applicant. If  
7 the director finds that the hearing application is made in good  
8 faith, that a remedy would be available if the grounds are  
9 established, or that such grounds otherwise justify holding a  
10 hearing, the director shall hold a hearing in accordance with  
11 section 44-7532.

12 (14) If, after a hearing held pursuant to subsection (12)  
13 or (13) of this section, the director finds that a filing does not  
14 meet the requirements of subsection (5) of this section, the  
15 director shall issue an order stating in what respects such filing  
16 fails to meet the requirements and when, within a reasonable period  
17 thereafter, such policy form or attachment rule shall no longer be  
18 used. Copies of the order shall be sent to the applicant, if  
19 applicable, and to every affected insurer and advisory  
20 organization. The order shall not affect any contract or policy  
21 made or issued prior to the expiration of the period set forth in  
22 the order."

23 2. On page 33, strike beginning with the comma in line 5  
24 through "(C)" in line 9 and insert "or (B)".

25 3. On page 116, line 2, strike the third comma and  
26 insert "to".

27 4. Renumber the remaining sections and correct internal  
1 references accordingly.

Senator Jensen filed the following amendment to LB 301:  
AM0441

1 1. Strike original section 44 and insert the following  
2 new section:

3 "Sec. 70. Section 81-3202, Revised Statutes Supplement,  
4 2004, is amended to read:

5 81-3202. The powers and duties of the Department of  
6 Health and Human Services Regulation and Licensure shall include,  
7 but are not limited to, the following:

- 8 (1) To operate in coordination with the Department of  
9 Health and Human Services and the Department of Health and Human  
10 Services Finance and Support;
- 11 (2) To consult and cooperate with other state agencies so  
12 as to coordinate its activities in an effective manner with related  
13 activities in other agencies;
- 14 (3) To adopt and promulgate necessary rules and  
15 regulations to implement its programs and activities as required by  
16 state law or under federal law or regulation governing grants or  
17 contracts administered by the Department of Health and Human  
18 Services Regulation and Licensure;
- 19 (4) Under the direction and guidance of the Adjutant  
20 General and the Nebraska Emergency Management Agency, to coordinate  
21 assistance programs established by the Adjutant General under  
22 section 81-829.72 with the programs of the department;
- 23 (5) To enter into such agreements as may be necessary or  
24 appropriate with the Department of Health and Human Services  
1 Finance and Support to provide services and manage funds as  
2 provided under the Nebraska Health and Human Services System Act,  
3 including the administration of federal funds granted to the state  
4 in the furtherance of the activities of the Department of Health  
5 and Human Services Regulation and Licensure;
- 6 (6) To enter into such agreements with and among the  
7 Department of Health and Human Services and the Department of  
8 Health and Human Services Finance and Support as may be necessary  
9 or appropriate to carry out the intent and purposes of the act,  
10 which may include, but are not limited to, agreements for the  
11 transfer of personnel, for the authority of such department or  
12 departments to act as its agent in carrying out services or  
13 functions, or a portion of them, or for the joint implementation of  
14 public or private grants or performance of contracts;
- 15 (7) To seek grants and other funds from federal and other  
16 public and private sources to carry out the purposes of the act and  
17 the missions and purposes of the Department of Health and Human  
18 Services Regulation and Licensure and to accept and administer  
19 programs or resources delegated, designated, assigned, or awarded  
20 by the Governor or by other public and private sources;
- 21 (8) To contract with and act as the agent of the federal  
22 government in matters of mutual concern in conformity with the act  
23 and the scope of authority of the department as provided by law;
- 24 (9) To provide comprehensive information to the  
25 Legislature and the Appropriations Committee of the Legislature  
26 relating to funding requests for programs and subprograms;
- 27 (10) To manage services and programs of the Department of  
1 Health and Human Services Regulation and Licensure, whether  
2 contracted or delivered directly by the state, including, but not  
3 limited to: (a) Providing services in accordance with established  
4 policies, desired outcomes, priorities, and goals; (b) identifying

5 strategies jointly with communities for accomplishing identified  
6 goals and outcomes; and (c) assuring service coordination and  
7 access through public education and information, community resource  
8 development, technical assistance, and coordinated service  
9 management;

10 (11) To ensure the quality of statewide health and human  
11 services based on outcomes and performance measures, including, but  
12 not limited to: (a) Developing evaluation measurements and  
13 analyzing results; (b) certifying and licensing facilities and  
14 professionals; (c) evaluating services or programs to determine  
15 compliance with state, federal, or other contractual requirements;  
16 (d) developing, reviewing, and revising rules and regulations in  
17 accordance with established systemwide policies and objectives; (e)  
18 coordinating with the Department of Health and Human Services to  
19 develop appropriate technical assistance, education, training, and  
20 joint problem-solving; and (f) providing a common-sense approach to  
21 regulation and licensure that focuses on the outcomes and assures  
22 compliance consistent with those outcomes;  
23 ~~(11)~~ (12) To adopt and promulgate confidentiality rules  
24 and regulations as provided in section 81-3007.01; and  
25 ~~(12)~~ (13) To perform such other duties as are provided by  
26 law."

27 2. In the E & R amendments, AM7008, on page 1, strike  
28 beginning with "51" in line 3 through "70" in line 4 and insert  
29 "50, 52 to 63, 69"; and in line 5 strike "52, 67 to 69" and insert  
30 "66 to 68".

31 3. On page 6, strike beginning with "section" in line 21  
32 through "Act" in line 22, show as stricken, and insert "42 U.S.C.  
33 1396d(a)(ii)".

34 4. On page 73, line 18, strike "The act and sections  
35 are" and insert "This section is".

36 5. On page 75, line 21, strike "71-5177,"; and in line  
37 28 strike "section 81-3102" and all amendments thereto and insert  
38 "sections 71-5653, 81-3102, and 81-3202".

39 6. Renumber the remaining sections accordingly.

Senator Byars filed the following amendment to LB 89:  
AM0447

1 1. On page 2, line 25, after "period" insert ", if the  
2 requirements regarding education and examination for licensure in  
3 the state of licensure are equal to or exceed the requirements  
4 regarding education and examination for licensure in Nebraska".

Senator Raikes filed the following amendment to LB 126:  
AM0363

1 1. Strike sections 37 and 44 and insert the following  
2 new section:  
3 "Sec. 37. Section 79-611, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

- 5 79-611. (1) The school board shall either provide free  
6 transportation or pay an allowance for transportation in lieu of  
7 free transportation as follows:
- 8 (a) When a student in grades kindergarten through eight  
9 attends an elementary school in his or her own district and lives  
10 more than four miles from the public schoolhouse in such district;  
11 and
- 12 (b) When a student in grades kindergarten through eight  
13 is required to attend an elementary school outside of his or her  
14 own district and lives more than four miles from such elementary  
15 school; ;
- 16 ~~(c) When a student attends a secondary school in his or~~  
17 ~~her own Class II or Class III school district and lives more than~~  
18 ~~four miles from the public schoolhouse. This subdivision does not~~  
19 ~~apply when one or more Class I school districts merge with a Class~~  
20 ~~VI school district to form a new Class II or III school district on~~  
21 ~~or after January 1, 1997; and~~
- 22 ~~(d) When a student, other than a student in grades ten~~  
23 ~~through twelve in a Class V district, attends an elementary or~~  
24 ~~junior high school in his or her own Class V district and lives~~  
25 ~~more than four miles from the public schoolhouse in such district.~~
- 26 (2) The transportation allowance which may be paid to the  
27 parent, custodial parent, or guardian of students qualifying for  
28 free transportation pursuant to subsection (1) of this section  
29 shall equal two hundred eighty-five percent of the mileage rate  
30 provided in section 81-1176, multiplied by each mile actually and  
31 necessarily traveled, on each day of attendance, beyond which the  
32 one-way distance from the residence of the student to the  
33 schoolhouse exceeds three miles.
- 34 (3) Whenever students from more than one family travel to  
35 school in the same vehicle, the transportation allowance prescribed  
36 in subsection (2) of this section shall be payable as follows:
- 37 (a) To the parent, custodial parent, or guardian  
38 providing transportation for students from other families, one  
39 hundred percent of the amount prescribed in subsection (2) of this  
40 section for the transportation of students of such parent's,  
41 custodial parent's, or guardian's own family and an additional five  
42 percent for students of each other family not to exceed a maximum  
43 of one hundred twenty-five percent of the amount determined  
44 pursuant to subsection (2) of this section; and
- 45 (b) To the parent, custodial parent, or guardian not  
46 providing transportation for students of other families, two  
47 hundred eighty-five percent of the mileage rate provided in section  
48 81-1176 multiplied by each mile actually and necessarily traveled,  
49 on each day of attendance, from the residence of the student to the  
50 pick-up point at which students transfer to the vehicle of a  
51 parent, custodial parent, or guardian described in subdivision (a)  
52 of this subsection.
- 53 (4) The board may authorize school-provided

3 transportation to any student who does not qualify under the  
 4 mileage requirements of subsection (1) of this section and may  
 5 charge a fee to the parent or guardian of the student for such  
 6 service. ~~An affiliated high school district may provide free~~  
 7 ~~transportation or pay the allowance described in this section for~~  
 8 ~~high school students residing in an affiliated Class I district.~~  
 9 No transportation payments shall be made to a family for mileage  
 10 not actually traveled by such family. The number of days the  
 11 student has attended school shall be reported monthly by the  
 12 teacher to the board of such public school district.  
 13 (5) No more than one allowance shall be made to a family  
 14 irrespective of the number of students in a family being  
 15 transported to school. If a family resides in a Class I district  
 16 which is part of a Class VI district and has students enrolled in  
 17 any of the grades offered by the Class I district and in any of the  
 18 non-high-school grades offered by the Class VI district, such  
 19 family shall receive not more than one allowance for the distance  
 20 actually traveled when both districts are on the same direct travel  
 21 route with one district being located a greater distance from the  
 22 residence than the other. In such cases, the travel allowance  
 23 shall be prorated among the school districts involved.  
 24 (6) No student shall be exempt from school attendance on  
 25 account of distance from the public schoolhouse."  
 26 2. Amend the repealer, renumber the remaining sections,  
 27 and correct internal references accordingly.

## ANNOUNCEMENT

Senator Kopplin designates LB 500 as his priority bill.

## RESOLUTION

**LEGISLATIVE RESOLUTION 43.** Introduced by Howard, 9;  
 Cunningham, 40; Price, 26.

WHEREAS, the Savidge family of Holt County were pioneers in  
 American aviation history; and

WHEREAS, Joe and Matt Savidge constructed a heavier-than-air self-  
 powered vehicle for flight and successfully held a public demonstration with  
 that vehicle on May 7, 1911. The Savidge brothers successfully built and  
 flew many airplanes during the infancy of air flight; and

WHEREAS, Matt Savidge was among the first to develop a method of  
 skywriting; and

WHEREAS, the Savidge brothers barnstormed across the Great Plains,  
 bringing the dream of airplane flight to thousands of people; and

WHEREAS, according to Duane Hutchinson, author of Sandhills  
Aviators, Joe Savidge coined the flying adage "May you always land an  
 equal number to the times you took off"; and

WHEREAS, Matt Savidge's death in a 1916 plane crash ended an

important chapter in American and Nebraskan aviation history; and

WHEREAS, the Savidge family's contributions and sacrifices in aviation have not been given the recognition they deserve.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Legislature recognizes and honors the aviation achievements of the Savidge family.

2. That the Clerk of the Legislature send a copy of this resolution to descendants of the Savidge family.

Laid over.

### **NOTICE OF COMMITTEE HEARINGS**

#### **General Affairs**

Room 1510

LB 107	Monday, February 28, 2005	1:30 p.m.
LB 108	Monday, February 28, 2005	1:30 p.m.
LB 430	Monday, February 28, 2005	1:30 p.m.
LB 702	Monday, February 28, 2005	1:30 p.m.
LB 668	Monday, February 28, 2005	1:30 p.m.

(Signed) Ray Janssen, Chairperson

#### **Business and Labor**

Room 2102

LB 297	Monday, February 28, 2005	1:30 p.m.
LB 442	Monday, February 28, 2005	1:30 p.m.
LB 230	Monday, February 28, 2005	1:30 p.m.
LB 354	Monday, February 28, 2005	1:30 p.m.
LB 134	Monday, February 28, 2005	1:30 p.m.
LB 192	Monday, February 28, 2005	1:30 p.m.
LB 590	Monday, February 28, 2005	1:30 p.m.

(Signed) Douglas Cunningham, Chairperson

### **MESSAGE FROM THE GOVERNOR**

February 15, 2005

President, Speaker Brashear,  
Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Please withdraw Dr. Donald Taylor, Jr.'s name from confirmation to the

Rural Health Advisory Commission due to his resignation.

Thank you.

Sincerely,  
(Signed) Dave Heineman  
Governor

## **STANDING COMMITTEE REPORTS**

### **Natural Resources**

**LEGISLATIVE BILL 722.** Placed on General File as amended.  
(Standing Committee amendment, AM0442, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Ed Schrock, Chairperson

### **Education**

**LEGISLATIVE BILL 142.** Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

### **GENERAL FILE**

**LEGISLATIVE BILL 503.** Title read. Considered.

The Standing Committee amendment, AM0380, printed separately and referred to on page 515, was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 72.** Title read. Considered.

The Standing Committee amendment, AM0059, found on page 345, was considered.

Pending.

## **STANDING COMMITTEE REPORTS**

### **General Affairs**

**LEGISLATIVE BILL 201.** Placed on General File.

**LEGISLATIVE BILL 209.** Placed on General File.

**LEGISLATIVE BILL 210.** Indefinitely postponed.

**LEGISLATIVE BILL 405.** Indefinitely postponed.

(Signed) Ray Janssen, Chairperson

### **Banking, Commerce and Insurance**

**LEGISLATIVE BILL 545.** Placed on General File.

**LEGISLATIVE BILL 564.** Placed on General File.

**LEGISLATIVE BILL 647.** Placed on General File.

**LEGISLATIVE BILL 676.** Placed on General File.

**LEGISLATIVE BILL 41.** Indefinitely postponed.

**LEGISLATIVE BILL 391.** Indefinitely postponed.

**LEGISLATIVE BILL 688.** Indefinitely postponed.

(Signed) Mick Mines, Chairperson

### **Education**

**LEGISLATIVE BILL 270.** Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

### **Urban Affairs**

**LEGISLATIVE BILL 528.** Placed on General File.

**LEGISLATIVE BILL 626.** Placed on General File.

**LEGISLATIVE RESOLUTION 2CA.** Placed on General File.

**LEGISLATIVE BILL 384.** Indefinitely postponed.

**LEGISLATIVE BILL 414.** Indefinitely postponed.

(Signed) Mike Friend, Chairperson

### **ANNOUNCEMENT**

The Banking, Commerce and Insurance Committee designates LB 570 as its priority bill.

### **VISITORS**

Visitors to the Chamber were Elizabeth Koehler from Lincoln Southeast; Anthony and Emily Boubin and Joy Roos from Lexington Public Schools; Sara Achelpohl from Omaha; 53 members of Leadership Tomorrow from Hall County, Leadership York from York County, and Leadership Hastings from Adams County; 40 fourth-grade students and teachers from Eagle; and Janice Coordsen from Gilead and Faye Schellpeper from Stanton.

**ADJOURNMENT**

At 11:54 a.m., on a motion by Senator Bourne, the Legislature adjourned until 9:00 a.m., Thursday, February 17, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**THIRTIETH DAY - FEBRUARY 17, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****THIRTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, February 17, 2005

**PRAYER**

The prayer was offered by Pastor Carl Lilienkamp, Grace Lutheran Church, Wayne.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Schrock who was excused; and Senator Foley who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-ninth day was approved.

**STANDING COMMITTEE REPORT  
Natural Resources**

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Jerrold Burke - Game and Parks Commission

VOTE: Aye: Senators Hudkins, Kopplin, Kremer, Loudon, McDonald, Schrock, Smith, Stuhr. Nay: None. Absent: None.

(Signed) Ed Schrock, Chairperson

**NOTICE OF COMMITTEE HEARING  
Appropriations  
Room 1524**

Tuesday, March 1, 2005

1:30 p.m.

AGENCY 20 - Department of Health and Human Services Regulation and

## Licensure

AGENCY 25 - Department of Health and Human Services

AGENCY 26 - Department of Health and Human Services Finance and Support

LB 208	Tuesday, March 1, 2005	1:30 p.m.
LB 267	Tuesday, March 1, 2005	1:30 p.m.
LB 376	Tuesday, March 1, 2005	1:30 p.m.
LB 511	Tuesday, March 1, 2005	1:30 p.m.
LB 521	Tuesday, March 1, 2005	1:30 p.m.

(Signed) Don Pederson, Chairperson

**RESOLUTION****LEGISLATIVE RESOLUTION 44.** Introduced by Kremer, 34.

WHEREAS, Jamie Harper, an esteemed resident of Grand Island and a student at Northwest High School, has achieved national recognition for exemplary volunteer service by receiving a 2005 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Ms. Harper earned this award by giving generously of her time and energy, creating an educational game, conducting workshops, and developing a web site to educate others about the importance of protecting water resources; and

WHEREAS, the success of the State of Nebraska, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Ms. Harper who use their considerable talents and resources to serve others.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates and honors Jamie Harper as a recipient of a Prudential Spirit of Community Award, recognizes her outstanding record of volunteer service, peer leadership and community spirit, and extends best wishes for her continued success and happiness.

2. That a copy of this resolution be sent to Jamie Harper.

Laid over.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of February 16, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Abboud, Chris, Public Affairs Group  
Interop-Solutions LLC

Bromm, Jaron, of Fennemore Craig  
Lincoln Federal Savings Bank

Kelley, Michael of Kelley & Lehan, PC  
Cornerstone Energy, Inc.  
Scheels All Sports Inc.

Schlitt, Marjorie  
Nebraska Voting Rights Coalition

Skovgard, Gus  
MidAmerican Energy Company

Vickers, Tom  
Postsecondary Career Schools, Nebraska Council of Private

## REPORTS

The following reports were received by the Legislature:

### Energy Office

Annual Report for Fiscal Year 2003-2004  
Nebraska Energy Statistics

### Roads, Department of

Board of Public Roads Classifications and Standards Minutes for  
November, 2004

## SELECT FILE

**LEGISLATIVE BILL 1.** Advanced to E & R for engrossment.  
**LEGISLATIVE BILL 2.** Advanced to E & R for engrossment.  
**LEGISLATIVE BILL 3.** Advanced to E & R for engrossment.  
**LEGISLATIVE BILL 80.** Advanced to E & R for engrossment.  
**LEGISLATIVE BILL 83.** Advanced to E & R for engrossment.  
**LEGISLATIVE BILL 59.** Advanced to E & R for engrossment.  
**LEGISLATIVE BILL 88.** Advanced to E & R for engrossment.  
**LEGISLATIVE BILL 33.** Advanced to E & R for engrossment.  
**LEGISLATIVE BILL 261.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 169.** E & R amendment, AM7003, found on page 433, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 52.** E & R amendment, AM7007, found on page 433, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 61.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 16.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 17.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 15.** E & R amendment, AM7010, found on page 470, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 18.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 329.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 383.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 216.** E & R amendment, AM7015, found on page 475, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 334.** E & R amendment, AM7013, found on page 475, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 37.** E & R amendment, AM7014, found on page 476, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 11.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 53.** Senator Smith requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 32 ayes, 6 nays, 9 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 20.** E & R amendment, AM7000, found on page 395, was adopted.

Senator Chambers withdrew his pending amendment, AM0117, found on

page 381.

Senator Chambers renewed his pending amendment, AM0191, found on page 410.

The Chambers amendment was adopted with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 118.** E & R amendment, AM7001, found on page 398, was adopted.

Senator Cunningham renewed his pending amendment, AM0317, found on page 510.

The Cunningham amendment was adopted with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 119.** E & R amendment, AM7006, found on page 431, was adopted.

Senators Mines and Beutler renewed their pending amendment, AM0398, found on page 537.

The Mines-Beutler amendment was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 21.** E & R amendment, AM7002, found on page 432, was adopted.

Senator Erdman renewed his pending amendment, AM0082, found on page 402.

The Erdman amendment was adopted with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 89.** Senator Chambers withdrew his pending amendment, FA14, found on page 457.

Senator Byars renewed his pending amendment, AM0447, found on page 541.

The Byars amendment was adopted with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 175.** E & R amendment, AM7004, found on page 433, was adopted.

Senator Jensen renewed his pending amendment, AM0227, found on page 526.

The Jensen amendment was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 176.** Senator Jensen renewed his pending amendment, AM0341, found on page 526.

The Jensen amendment was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 301.** E & R amendment, AM7008, found on page 433, was adopted.

Senator Jensen renewed his pending amendment, AM0441, found on page 539.

The Jensen amendment was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 96.** E & R amendment, AM7005, found on page 434, was adopted.

Senator Chambers renewed his pending amendment, AM0434, found on page 522.

Senator Chambers moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 1:

Schimek

Voting in the negative, 26:

Bourne	Engel	Hudkins	Pedersen, Dw.	Thompson
Burling	Erdman	Janssen	Price	Wehrbein
Combs	Flood	Kremer	Redfield	
Connealy	Foley	Landis	Smith	
Cornett	Friend	Langemeier	Stuhr	
Cunningham	Howard	Mines	Synowiecki	

Present and not voting, 20:

Aguilar	Byars	Heidemann	Kruse	Pederson, D.
Baker	Chambers	Jensen	Louden	Preister
Beutler	Cudaback	Johnson	McDonald	Raikes
Brown	Fischer	Kopplin	Pahls	Stuthman

Excused and not voting, 2:

Brashear      Schrock

The Chambers amendment lost with 1 aye, 26 nays, 20 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:  
Reconsider the vote on AM0434.

Senator Chambers moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Senator Chambers requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 26:

Bourne	Flood	Kopplin	Price	Thompson
Burling	Foley	Kremer	Redfield	Wehrbein
Byars	Friend	Landis	Schimek	
Connealy	Howard	Langemeier	Smith	
Cunningham	Janssen	Mines	Stuhr	
Erdman	Johnson	Pedersen, Dw.	Synowiecki	

Present and not voting, 12:

Beutler	Cudaback	Jensen	McDonald
Brown	Fischer	Kruse	Pahls
Cornett	Heidemann	Louden	Preister

Excused and not voting, 10:

Aguilar	Brashear	Engel	Pederson, D.	Schrock
Baker	Combs	Hudkins	Raikes	Stuthman

The Chambers motion to reconsider failed with 1 aye, 26 nays, 12 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Pending.

### **GENERAL FILE**

**LEGISLATIVE BILL 242.** Title read. Considered.

### **SENATOR KREMER PRESIDING**

The Standing Committee amendment, AM0153, found on page 399, was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

### **SENATOR CUDABACK PRESIDING**

### **NOTICE OF COMMITTEE HEARING**

#### **Health and Human Services**

Room 1510

Thursday, February 24, 2005

1:30 p.m.

Shawn J. Baumgartner - Board of Emergency Medical Services  
 Robert Dunn - Board of Emergency Medical Services  
 Rommie J. Hughes - Board of Emergency Medical Services  
 Benjamin B. Lans - Board of Emergency Medical Services  
 Clinton Rasmussen - Board of Emergency Medical Services  
 Kevin Benesch - Child Abuse Prevention Fund Board  
 Peter Tulipana - Child Abuse Prevention Fund Board  
 James E. Gordon - Foster Care Review Board  
 John Seyfarth - Foster Care Review Board  
 Gerald Schenck - Foster Care Review Board  
 William Brush - Rural Health Advisory Commission  
 Martin L. Fattig - Rural Health Advisory Commission  
 Pamela H. List - Rural Health Advisory Commission

Michele Mulligan-Witt - Rural Health Advisory Commission  
Samuel Augustine - State Board of Health  
Edward Discoe - State Board of Health  
Linda Lazure - State Board of Health  
Paul Salansky - State Board of Health  
James C. Schiefen - State Board of Health  
Michael L. Westcott - Board of Emergency Medical Services  
Gary Westerman - State Board of Health

(Signed) Jim Jensen, Chairperson

## RESOLUTION

### LEGISLATIVE RESOLUTION 45. Introduced by Brashear, 4.

WHEREAS, the NEBRASKAland Foundation on Saturday, March 5, 2005, at the annual Statehood Day dinner, held in the Nebraska State Capitol, presents the distinguished Nebraskalander award, along with the Wagonmaster, Trailblazer, and Pioneer awards; and

WHEREAS, the Wagonmaster Award is presented to Mr. Ralph Holzfaster. Mr. Holzfaster operates his family farm. Other business interests of Mr. Holzfaster include a successful commercial hunting business, an irrigation dealership, and a motel/convenience store. Some boards Mr. Holzfaster presently serves on include the Nebraska Public Power District, Mid Plains College Foundation, Natural Fibers Corporation, and Western Nebraska Development Foundation. He also has been a member of the Nebraska Ethanol Authority, the Governor's Water Conference Council, and the Governor's Advisory Committee. He has received the Nebraska Agribusiness Public Service Award, University of Nebraska Alumni Association College of Business Business Leadership Award, and West Central Nebraska Development Outstanding Citizen Award; and

WHEREAS, the Pioneer Award is presented to Ms. Nancy Hoch. Ms. Hoch's primary interest for many years has been to improve the quality of life and economic vitality of Nebraska City. The following are some examples of her dedication to Nebraska: She worked for several years with Cargill Corporation to establish a "cooked meat" plant when the local plant was about to close, thus saving all the jobs; she recruited Arnie's Bagels and has been instrumental in the expansion and continuation of the American Meter Company; Ms. Hoch was primarily responsible for the location of the VF Factory Outlet Mall in Nebraska City; she led the long and determined process to transform Nebraska Highway 2 into a four-lane expressway between Lincoln and Nebraska City; and she is also well known for serving twelve years as a University of Nebraska Regent; and

WHEREAS, the Trailblazer Award is presented to Mr. Bryce Neidig. Bryce Neidig started farming in 1954 after completing a tour of duty with the United States Army in Korea. In 1966, he received outstanding young farmer awards from two different organizations. Mr. Neidig has gone on to serve agriculture in a variety of ways, including serving as president of the Madison County Farm Bureau and serving on the Nebraska Farm Bureau

Board of Directors beginning in 1975. He was elected president of the board in 1981. He continued to serve in that capacity until he retired in 2002. In 1988, he was elected to the American Farm Bureau Board of Directors and continued to serve on that board until his retirement. He currently serves on the Governor's Agricultural Advisory Council, the State Capitol Commission, the State Historical Society Foundation, and the Blue Cross and Blue Shield Board of Directors; and

WHEREAS, the distinguished NEBRASKAlander Award is presented to Father Val J. Peter. Father Peter is the Executive Director of Girls and Boys Town, the original Father Flanagan's Boys' Home. Father Peter assumed the position in 1985 and is the caretaker of Father Flanagan's dream of changing the way America cares for its children and families. He has led the growth of Girls and Boys Town from the Village of Boys Town, Nebraska, to nineteen sites in fourteen states and the District of Columbia. More than four hundred fifty thousand children and parents were directly assisted through the National Crisis Hotline this past year and nearly one million were helped indirectly through Outreach and Training Programs.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature extends its appreciation to the aforesaid honorees for their service to the State of Nebraska.

2. That a copy of this resolution be given to all honorees.

Laid over.

### AMENDMENTS - Print in Journal

Senator Kremer filed the following amendment to LB 51:  
AM0477

- 1 1. On page 3, strike beginning with "Such" in line 8
- 2 through "Agriculture" in line 10 and insert "Such laboratory
- 3 testing services shall not be expanded beyond the scope of the
- 4 department's statutory authority.".

Senator Raikes filed the following amendment to LB 283:  
AM0473

(Amendments to E & R amendments, AM7011)

- 1 1. On page 8, lines 1 through 3, strike the new
- 2 language; and in line 3 after the period insert "In counties that
- 3 have adopted a resolution to extend the deadline for hearing
- 4 protests under section 77-1502. the deadline of July 25 shall be
- 5 extended to August 10.".

Senator Johnson filed the following amendment to LB 668:  
AM0445

- 1 1. Strike beginning on page 2, line 7, through page 4,
- 2 line 8, and insert:

3 "A tract of land being part of Government Lot 1, part of  
4 Government Lot 2, part of Government Lot 3, part of Government Lot  
5 4, part of the South half of the Northwest Quarter, part of the  
6 Northwest Quarter of the Southwest Quarter, part of the South half  
7 of the Northeast Quarter and part of the North half of the  
8 Southeast Quarter of Section 4, Township 8 North, Range 16 West of  
9 the 6th P.M., Buffalo County, Nebraska, all more particularly  
10 described as follows: Referring to the Southeast Corner of the  
11 Northeast Quarter of said Section 4 and assuming the South line of  
12 said Northeast Quarter as bearing N 89° 59' 10" W and all bearings  
13 contained herein are relative thereto; thence N 89° 59' 10" W and  
14 on the South line of the Northeast Quarter of said section a  
15 distance of 660.0 feet to the ACTUAL PLACE OF BEGINNING; thence S  
16 01° 37' 34" W a distance of 18.65 feet to a point on the North  
17 property line of an existing road; thence N 89° 29' 57" W and on  
18 the aforesaid North property line a distance of 3372.3 feet to the  
19 point of curvature; thence on a 1332.72 foot radius curve to the  
20 left forming a central angle of 13° 10' a distance of 306.26 feet  
21 to the point of tangency; thence tangent S 77° 20' 03" W a distance  
22 of 224.85 feet to the point of curvature; thence on a 687.31 foot  
23 radius curve to the right forming a central angle of 07° 31' 16" a  
24 distance of 90.32 feet; thence leaving said curve N 01° 39' E a  
1 distance of 85.39 feet to a point on the South line of the  
2 Northwest Quarter of said Section 4; thence N 01° 31' 22" E a  
3 distance of 310.2 feet to the Northeast corner of a tract of land  
4 known as Reservation No. 2 as located in State Application Resurvey  
5 No. 154 and filed in the Buffalo County Surveyors Office; thence N  
6 89° 57' 11" W and on the North line of said Reservation No. 2 tract  
7 a distance of 243.86 feet; thence N 01° 43' 30" W a distance of  
8 1501.2 feet; thence S 85° 38' E a distance of 681.66 feet to the  
9 Southeast corner of a tract of land known as Reservation No. 1,  
10 thence N 21° 02' W and on the easterly line of said Reservation No.  
11 1 a distance of 535.07 feet; thence S 80° 22' 31" E a distance of  
12 365.02 feet; thence S 86° 03' 12" E a distance of 351.11 feet;  
13 thence N 86° 44' 38" E a distance of 359.33 feet; thence N 79° 19'  
14 21" E a distance of 443.41 feet; thence N 77° 14' 05" E a distance  
15 of 660.05 feet; thence N 83° 05' E a distance of 195.54 feet;  
16 thence N 89° 51' 32" E a distance of 1503.54 feet to a point, said  
17 point being 660.0 feet West of the East line of said Section 4;  
18 thence S 01° 37' 34" W a distance of 2450.53 feet to the place of  
19 beginning. Containing 221.3 acres, more or less.  
20 A tract of land being part of the North half of the South  
21 half of Section 4, Township 8 North, Range 16 West of the 6th P.M.,  
22 Buffalo County, Nebraska, more particularly described as follows:  
23 Referring to the Northeast corner of the Southeast Quarter of  
24 Section 4 and assuming the North line of said Southeast Quarter as  
25 bearing N 89° 59' 10" W and all bearings contained herein are  
26 relative thereto; thence N 89° 59' 10" W and on the North line of

27 said Southeast Quarter a distance of 660.0 feet; thence S 01° 37' 1 34" W a distance of 84.67 feet to the ACTUAL PLACE OF BEGINNING, 2 said place of beginning being on the South property line of an 3 existing road; thence N 89° 29' 57" W and on the aforesaid South 4 property line a distance of 3369.9 feet to the point of curvature; 5 thence on a 1266.72 foot radius curve to the left forming a central 6 angle of 13° 10' a distance of 291.1 feet to the point of tangency; 7 thence tangent S 77° 20' 03" W a distance of 224.85 feet to the 8 point of curvature; thence on a 753.31 foot radius curve to the 9 right forming a central angle of 12° 40' 30" a distance of 166.65 10 feet to the point of tangency; thence tangent N 89° 59' 27" W a 11 distance of 126.4 feet to the point of curvature; thence on a 12 1673.61 foot radius curve to the right forming a central angle of 13 05° 35' a distance of 163.09 feet to the point of tangency; thence 14 tangent N 84° 24' 27" W a distance of 158.4 feet to the point of 15 curvature; thence on a 1232.18 foot radius curve to the right 16 forming a central angle of 06° 21' 40" a distance of 136.8 feet to 17 the point of intersection of the West line of the Southwest Quarter 18 of said Section 4; thence leaving said curve S 01° 41' W and on the 19 West line of said Southwest Quarter a distance of 501.45 feet to a 20 point on the North property line of the Union Pacific Railroad; 21 thence N 85° 39' 06" E and on the aforesaid North property line a 22 distance of 188.78 feet to the point of curvature; thence on a 23 11017.1 foot radius curve to the left forming a central angle of 24 01° 29' a distance of 285.22 feet to the point of tangency; thence 25 tangent N 84° 10' 06" E a distance of 4185.03 feet to a point, said 26 point being 660.0 feet West of the East line of said Section 4; 27 thence N 01° 37' 34" E a distance of 61.84 feet to the place of 1 beginning. Containing 31.8 acres, more or less, of which 0.4 2 acres, more or less, are presently being used for road purposes on 3 the West side.".

4 2. On page 4, line 12, before "revenue" insert "net".

Senator Landis filed the following amendment to LB 28:

FA23

Strike sections 5 & 6

Renumber the remaining sections

### **MOTION - Print in Journal**

Senator Chambers filed the following motion to LB 96:

Indefinitely postpone.

### **AMENDMENTS - Print in Journal**

Senator Thompson filed the following amendment to LB 96:

FA24

Amend AM7005

P. 1, line 9, reinstate the stricken language and strike "up."

Senator Chambers filed the following amendment to LB 96:  
FA25

P. 2, strike lines 25-28; and on page 3, strike lines 1-6.

## **STANDING COMMITTEE REPORTS**

### **Transportation and Telecommunications**

**LEGISLATIVE BILL 276.** Placed on General File as amended.

Standing Committee amendment to LB 276:

AM0417

- 1 1. On page 3, line 6, strike "three" and insert "four".
- 2 2. On page 5, line 28; page 17, line 19; and page 34,
- 3 line 10, strike "41" and insert "46".
- 4 3. On page 8, strike beginning with "device" in line 1
- 5 through "and" in line 3 and insert "trailer".
- 6 4. On page 9, strike beginning with "All-terrain" in
- 7 line 2 through "2004" in line 3 and insert "Well-boring apparatus,
- 8 backhoes, bulldozers, and front-end loaders"; and in line 27 after
- 9 "37" insert "or 38".
- 10 5. On page 12, line 14, strike "subdivision (b)" and
- 11 insert "subdivisions (b) and (c)"; and after line 27 insert the
- 12 following new subdivision:
- 13 "(c) The department shall issue and file certificates of
- 14 title for state-owned vehicles. Application for a certificate of
- 15 title shall be made upon a form prescribed by the department. All
- 16 applications shall be accompanied by the appropriate fee or fees.".
- 17 6. On page 13, strike lines 23 through 26.
- 18 7. On page 23, line 21, strike "; and" and insert an
- 19 underscored period.
- 20 8. On page 26, line 2, strike "their" and insert "the";
- 21 and in line 3 strike "treasurers" and insert "treasurer".
- 22 9. On page 32, line 8, strike "36" and insert "44".
- 23 10. On page 40, line 16, after "title" insert "issued on
- 24 or after January 1, 2003".
- 1 11. On page 45, line 6, after "title" insert "or
- 2 manufacturer's or importer's certificate".
- 3 12. On page 49, line 4, after the first "the" insert
- 4 "motor"; and in lines 5 and 6 strike "minibike, or all-terrain
- 5 vehicle".
- 6 13. On page 50, line 9, after "issued" insert "for a
- 7 motor vehicle"; in line 17 strike "88" and insert "92"; and in line
- 8 27 after "the" insert "motor".
- 9 14. On page 51, line 10, after the comma insert
- 10 "odometer statements"; and in line 11 after "certificates" insert
- 11 ", statements".
- 12 15. On page 59, lines 6 and 19; and page 60, line 14,

13 strike "59" and insert "64".

14 16. On page 60, line 12, strike "42" and insert "47".

15 17. On page 67, line 12, after "Act" insert an

16 underscored comma.

17 18. On page 77, line 5, strike "subdivision" and show as

18 stricken and strike "(2)(e)" and insert "subsection (6)".

19 19. On page 81, line 1, strike "77" and insert "81".

**LEGISLATIVE BILL 639.** Placed on General File as amended.

Standing Committee amendment to LB 639:

AM0443

1 1. On page 2, line 24, strike beginning with the first

2 comma through "highways" and insert "and streets"; in lines 26 and

3 27 strike "political or governmental subdivision" and insert

4 "county or municipality"; and in line 28 strike the second "of" and

5 insert "or finding of no significant impact by".

6 2. On page 10, after line 19, insert:

7 "(3) For any beltway proposed under sections 39-1311 to

8 39-1311.05, the duties of the department shall be assumed by the

9 county or municipality that received approval for the beltway

10 project.".

**LEGISLATIVE BILL 63.** Indefinitely postponed.

**LEGISLATIVE BILL 185.** Indefinitely postponed.

**LEGISLATIVE BILL 202.** Indefinitely postponed.

(Signed) Tom Baker, Chairperson

### Health and Human Services

**LEGISLATIVE BILL 6.** Placed on General File.

**LEGISLATIVE BILL 306.** Placed on General File.

**LEGISLATIVE BILL 603.** Placed on General File.

**LEGISLATIVE RESOLUTION 9.** Reported to the Legislature for further consideration.

(Signed) Jim Jensen, Chairperson

### General Affairs

**LEGISLATIVE BILL 573.** Placed on General File as amended.

Standing Committee amendment to LB 573:

AM0091

1 1. Insert the following new section:

2 "Sec. 4. Section 2-1213, Reissue Revised Statutes of

3 Nebraska, is amended to read:

4 2-1213. (1) No racing under sections 2-1201 to 2-1218

5 shall be permitted on Sunday except when approved by a majority of

6 the members of the State Racing Commission upon application for  
7 approval by any racetrack. Such approval shall be given after the  
8 commission has considered: (a) Whether Sunday racing at the  
9 applicant track will tend to promote and encourage agriculture and  
10 horse breeding in Nebraska; (b) whether the applicant track  
11 operates under a license granted by the commission; (c) whether the  
12 applicant track is in compliance with all applicable health,  
13 safety, fire, and police rules and regulations or ordinances; (d)  
14 whether the denial of Sunday racing at the applicant track would  
15 impair such track's economic ability to continue to function under  
16 its license; and (e) whether the record of the public hearing held  
17 on the issue of Sunday racing at the applicant track shows  
18 reasonable public support. Notice of such public hearing shall be  
19 given at least ten days prior thereto by publication in a newspaper  
20 having general circulation in the county in which the applicant  
21 track is operating, and the commission shall conduct a public  
22 hearing in such county. The commission may adopt, promulgate, and  
23 enforce rules and regulations governing the application and  
24 approval for Sunday racing in addition to its powers in section  
1 2-1203. If the commission permits racing on Sunday, the voters may  
2 prohibit such racing in the manner prescribed in section 2-1213.01.  
3 If approval by the commission for Sunday racing at the applicant  
4 track is granted, no racing shall occur on Sunday until after 1  
5 p.m.

6 No license shall be granted for racing on more than one  
7 racetrack in any one county, except that the commission may, in its  
8 discretion, grant a license to any county agricultural society to  
9 conduct racing during its county fair notwithstanding a license may  
10 have been issued for racing on another track in such county. Since  
11 the purpose of sections 2-1201 to 2-1218 is to encourage  
12 agriculture and horse breeding in Nebraska, every licensee shall  
13 hold at least one race on each racing day limited to certified  
14 Nebraska-bred horses, or from September 1, 2005, through January 1,  
15 2008, for each live racing day, at least one race shall give  
16 preference to Nebraska-bred quarter horses. Three percent of the  
17 first money of every purse won by a certified Nebraska-bred horse  
18 shall be paid to the breeder of such horse.

19 (2) For purposes of this section, Nebraska-bred horse  
20 shall mean a horse registered with the Nebraska Thoroughbred or  
21 Quarter Horse Registry and meeting the following requirements: (a)  
22 It shall have been foaled in Nebraska; (b) its dam shall have been  
23 registered, prior to foaling, with the Nebraska Thoroughbred or  
24 Quarter Horse Registry; and (c) its dam shall have been  
25 continuously in Nebraska for ninety days immediately prior to  
26 foaling, except that such ninety-day period may be reduced to  
27 thirty days in the case of a mare in foal which is purchased at a  
1 nationally recognized thoroughbred or quarter horse blood stock  
2 sale, the name and pedigree of the mare being listed in the sale  
3 catalog, and which is brought into this state and remains in this

- 4 state for thirty days immediately prior to foaling.  
 5 The requirement that a dam shall be continuously in  
 6 Nebraska for either ninety days or thirty days, as specified in  
 7 subdivision (2)(c) of this section, shall not apply to a dam which  
 8 is taken outside of Nebraska to be placed for sale at a nationally  
 9 recognized thoroughbred or quarter horse blood stock sale, the name  
 10 and pedigree of the mare being listed in the sale catalog, or for  
 11 the treatment of an extreme sickness or injury, if written notice  
 12 of such proposed sale or treatment is provided to the secretary of  
 13 the commission within three days of the date such horse is taken  
 14 out of the state.  
 15 The commission may designate official registrars for the  
 16 purpose of registration and to certify the eligibility of  
 17 Nebraska-bred horses. An official registrar shall perform such  
 18 duties in accordance with policies and procedures adopted and  
 19 promulgated by the commission in the current rules and regulations  
 20 of the commission. The commission may authorize the official  
 21 registrar to collect specific fees as would reasonably compensate  
 22 the registrar for expenses incurred in connection with registration  
 23 of Nebraska-bred horses. The amount of such fee or fees shall be  
 24 established by the commission and shall not be changed without  
 25 commission approval. Fees shall not exceed one hundred dollars per  
 26 horse.  
 27 Any decision or action taken by the official registrar  
 1 shall be subject to review by the commission or may be taken up by  
 2 the commission on its own initiative."  
 3 2. Renumber the remaining sections accordingly.

(Signed) Ray Janssen, Chairperson

### Revenue

**LEGISLATIVE BILL 254.** Indefinitely postponed.  
**LEGISLATIVE BILL 514.** Indefinitely postponed.  
**LEGISLATIVE BILL 644.** Indefinitely postponed.  
**LEGISLATIVE BILL 720.** Indefinitely postponed.

(Signed) David Landis, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 563.** Title read. Considered.

Advanced to E & R for review with 26 ayes, 2 nays, 13 present and not voting, and 8 excused and not voting.

### BILL ON FIRST READING

The following bill was read for the first time by title:

**LEGISLATIVE BILL 12A.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 12, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

**ANNOUNCEMENT**

Senator Kremer announced the Agriculture Committee will meet in Room 1524 on February 22, 2005, instead of Room 2102.

**STANDING COMMITTEE REPORT**  
**Health and Human Services****LEGISLATIVE BILL 259.** Placed on General File as amended.

Standing Committee amendment to LB 259:

AM0478

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. (1) The Nebraska Coalition for Juvenile
- 4 Justice established in section 43-2411, in consultation with the
- 5 Nebraska Commission on Law Enforcement and Criminal Justice, the
- 6 Department of Health and Human Services, and the Department of
- 7 Health and Human Services Regulation and Licensure, shall create a
- 8 work group to develop recommendations for the training of youth
- 9 services workers employed by entities licensed by the Department of
- 10 Health and Human Services and the Department of Health and Human
- 11 Services Regulation and Licensure for the care or treatment of
- 12 youth in out-of-home placements. The Nebraska Commission on Law
- 13 Enforcement and Criminal Justice shall provide staff support for
- 14 the work group.
- 15 (2) On or before December 1, 2005, the coalition, in
- 16 consultation with the work group, the Nebraska Commission on Law
- 17 Enforcement and Criminal Justice, the Department of Health and
- 18 Human Services, and the Department of Health and Human Services
- 19 Regulation and Licensure, shall prepare and submit to the Governor
- 20 and the Legislature a plan for the statewide provision and funding
- 21 of training for youth services workers. The plan shall include,
- 22 but not be limited to:
- 23 (a) Identification of youth services workers to be
- 24 trained;
- 1 (b) A model training curriculum for youth services
- 2 workers;
- 3 (c) The statewide availability and cost of training;
- 4 (d) A certification process for approved providers of
- 5 training;
- 6 (e) A certification process for youth services workers;
- 7 (f) Adequate funding for training of youth services

8 workers; and  
9 (g) Oversight of training providers and competency  
10 assessments of youth services workers.  
11 (3) This section shall terminate upon submission of the  
12 report required in this section or on December 1, 2005, whichever  
13 occurs first.  
14 Sec. 2. Since an emergency exists, this act takes effect  
15 when passed and approved according to law."

**LEGISLATIVE BILL 305.** Placed on General File as amended.

Standing Committee amendment to LB 305:

AM0374

1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. For purposes of sections 1 and 2 of this  
4 act:  
5 (1) Educational institution means any (a) public or  
6 private nursery school, preschool, child care program other than an  
7 in-home child care program, or Head Start program, (b) elementary  
8 school, middle school, junior high school, or senior high school,  
9 and (c) trade school, postsecondary career school, community  
10 college, college, or university; and  
11 (2) Educational property means any (a) buildings or other  
12 real property owned, leased, or controlled by an educational  
13 institution or used by an educational institution during any  
14 school-related activity and (b) school buses and other vehicles  
15 owned, leased, or operated by an educational institution.  
16 Sec. 2. (1) Notwithstanding any other provision of law,  
17 the use of tobacco products is prohibited on all educational  
18 property in this state, except (a) in classrooms or other  
19 facilities as part of the educational, medical, or scientific  
20 curriculum or research of an educational institution and (b) in the  
21 outdoor areas owned, leased, or controlled by a postsecondary  
22 educational institution. The governing authority of each  
23 educational institution shall prominently post notice of such  
24 prohibition to students, staff, and the general public on the  
1 educational property of such institution.  
2 (2) Nothing in this section shall be construed to  
3 prohibit an educational institution from adopting and enforcing a  
4 more restrictive policy relating to the use of tobacco products on  
5 the educational property of such institution than the provisions of  
6 this section.  
7 (3) Nothing in this section shall be construed to  
8 infringe on an educational institution's authority to define its  
9 mission, develop policy, manage resources, or govern such  
10 institution.  
11 Sec. 3. Section 71-5707, Revised Statutes Supplement,  
12 2004, is amended to read:  
13 71-5707. (1) No person shall smoke in a public place or

14 at a public meeting except in designated smoking areas. This  
15 subsection does not apply in cases in which an entire room or hall  
16 is used for a private social function and seating arrangements are  
17 under the control of the sponsor of the function and not of the  
18 proprietor or person in charge of such room or hall.

19 (2) With respect to factories, warehouses, and similar  
20 places of work not usually frequented by the general public, the  
21 Department of Health and Human Services Regulation and Licensure  
22 shall, in consultation with the Department of Labor, establish  
23 rules to restrict or prohibit smoking in those places of work where  
24 the close proximity of workers or the inadequacy of ventilation  
25 causes smoke pollution detrimental to the health and comfort of  
26 nonsmoking employees.

27 (3) No person shall smoke at a site where child care  
1 programs required to be licensed under section 71-1911 are  
2 provided. This subsection applies to a child care program located  
3 in the home of the provider only during times one or more client's  
4 children are present in any part of the home.

5 (4) Smoking is prohibited in all vehicles owned or leased  
6 by the state and in all buildings, and the area within ten feet of  
7 any entrance of such buildings, which are owned, leased, or  
8 occupied by the state except as provided in subsections (5); and  
9 (6); ~~and (7)~~ of this section.

10 (5) The following buildings or areas within buildings in  
11 which persons reside or lodge may be exempt from this section: (a)  
12 Nebraska veterans homes established pursuant to section 80-315; (b)  
13 private residences; (c) facilities and institutions under the  
14 control of the Department of Health and Human Services; and (d)  
15 overnight lodging facilities and buildings managed by the Game and  
16 Parks Commission, but no more than twenty-five percent of the  
17 overnight lodging facilities at each park location shall permit  
18 smoking.

19 (6) Designated smoking areas not to exceed fifty percent  
20 of the space used by the public may be established in state-owned  
21 buildings at the Nebraska State Fairgrounds that possess a Class C,  
22 I, or M license for the sale of alcoholic liquor for consumption on  
23 the premises under the Nebraska Liquor Control Act.

24 ~~(7) Smoking may be permitted in no more than forty~~  
25 ~~percent of the residential housing rooms or units owned or leased~~  
26 ~~on each campus under the control of the Board of Regents of the~~  
27 ~~University of Nebraska or the Board of Trustees of the Nebraska~~  
1 ~~State Colleges.~~

2 Sec. 4. Original section 71-5707, Revised Statutes  
3 Supplement, 2004, is repealed.".

(Signed) Jim Jensen, Chairperson

**ATTORNEY GENERAL'S OPINION**Opinion 05002

DATE: February 17, 2005

SUBJECT: Constitutionality of Proposed Amendment to Neb. Rev. Stat. § 32-561; Simultaneous Service in the Legislature and in the Military

REQUESTED BY: Pam Redfield, Senator  
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General  
Lynn A. Melson, Assistant Attorney General

You have requested the opinion of this office regarding a proposed amendment to Neb. Rev. Stat. § 32-561 (2004). You propose to amend § 32-561 regarding elective offices, military duty and vacancies of office so as to eliminate the current exception for legislators called to military duty. You have been advised by the Revisor's Office that such legislation may be unconstitutional under art. III, § 9 of the Nebraska Constitution. Therefore, you have requested our opinion of the constitutionality of legislation which would amend § 32-561 as described above.

Neb. Rev. Stat. § 32-561 (1) currently provides as follows:

(1) The acceptance of a commission to any military or naval office or the enlistment in or induction into the military or naval service of the United States which may require an incumbent in an elective office, except the office of member of the Legislature, to exercise military or naval duties within or without the state for any period of time within the term for which such person has been elected or appointed shall not create a vacancy of such office. While the incumbent exercises such military or naval duties within or without this state, he or she shall not be (a) entitled to receive any compensation, perquisites, or emoluments of the elective office, (b) required to keep and maintain an official bond or equivalent commercial insurance policy in force, or (c) responsible for the acts and defalcations of an acting officer duly appointed and qualified to take the place of the incumbent in such office during the time the incumbent is in such military or naval office or is inducted into or enlists in the military or naval service. (Emphasis added).

Pursuant to this statute, no vacancy is created in an elective office when the incumbent exercises military or naval duties. However, members of the Legislature are specifically excepted. The language excepting the office of member of the Legislature was added in 1941 to a predecessor of § 32-561, that is, Neb. Rev. Stat. § 32-1701 (Cum. Supp. 1941).

You have been informed that legislation to remove this exception would

be unconstitutional pursuant to art. III, § 9 of the Nebraska Constitution which provides as follows:

No person holding office under the authority of the United States, or any lucrative office under the authority of this state, shall be eligible to or have a seat in the Legislature. No person elected or appointed to the Legislature shall receive any civil appointment to a state office while holding membership in the Legislature or while the Legislature is in session, and all such appointments shall be void. Except as otherwise provided by law, a member of the Legislature who is elected to any other state or local office prior to the end of his or her term in the Legislature shall resign from the Legislature prior to the commencement of the legislative session during which the term of the state or local office will begin.

In our view, another potential problem is raised by the Separation of Powers provision of art. II, § 1 of the Nebraska Constitution. Art. II, § 1 provides, as is pertinent here: "[T]he powers of the government of this state are divided into three distinct departments, the Legislative, Executive and Judicial, and no person or collection of persons being one of these departments, shall exercise any power properly belonging to either of the others, . . . ." In other words, in its personnel aspect, Article II prohibits certain persons from serving two branches of government concurrently.

We have previously discussed in some detail the permissibility of service in the Nebraska National Guard by a member of the Nebraska Legislature in Op. Att'y Gen. No. 96039 (April 29, 1996). At that time we responded to the question of Senator John Hilgert concerning service in the Nebraska National Guard as a commissioned officer by a member of the legislature and we responded to the question within those parameters. In that opinion we first examined art. III, § 9 which prohibits dual office holding by legislators. "[s]ince the initial sentence of art. III, § 9 does not distinguish between military or civil offices, it appears to us that the prohibitions contained in that portion of the Nebraska Constitution apply equally to military as well as civil offices. Under that analysis, an individual who holds a military office under authority of the United States or a lucrative military office under authority of the State is prohibited from serving in the Legislature." Op. Att'y Gen. No. 96039 at p.3. We then examined the history of the constitutional provision as well as the Nebraska Supreme Court's discussion of it in *State ex rel Spire v. Conway*, 238 Neb. 766, 472 N.W.2d 403 (1991), which supported our conclusion. We concluded that service as a commissioned officer in either the Nebraska National Guard or under authority of the United States is incompatible with service as a member of the Nebraska Legislature on the basis of art. III, § 9.

In that prior opinion, we concluded that dual service as a commissioned officer in the Nebraska National Guard and a member of the Nebraska Legislature is also prohibited by the Separation of Powers provision of art. II, § 1. Under the test set out in the *Conway* case, *supra*, a member of the

Nebraska Legislature is an officer of the Legislative branch of government and, as a result, cannot be either an officer or an employee of another branch of government. As we believe that commissioned officers in the Nebraska National Guard are officers in the Executive Branch of state government, members of the Legislature cannot also serve as a commissioned officer in the Guard.

As previously stated, our prior opinion was limited to the question of service as a commissioned officer in the Nebraska National Guard. While, art. III, § 9 would likely be interpreted to prohibit a Legislator from serving as a commissioned officer in either the Nebraska National Guard or United States military service, it does not appear to preclude a Legislator from serving as an enlistee in the Nebraska National Guard or United States military service. The remaining question then is whether the Separation of Powers provision at art. II, § 1 would preclude a Legislator from service as an enlistee in either the Nebraska National Guard or United States military service. Art. II, § 1 would preclude a Legislator from being either an officer or an employee of another branch of state government, but would not preclude that Legislator from serving in another branch of federal government. Therefore, in our view, a Legislator would not be prohibited by either constitutional provision from serving as an enlistee in the United States military service. As to whether a Legislator could serve as an enlistee in the Nebraska National Guard, this question may turn upon whether an enlistee in the Nebraska National Guard constitutes a "member" of the Executive Branch of government.

In Conway, supra, the Court interpreted the phrase "being one of these departments," for purposes of the Separation of Powers provision, as meaning "being a member - that is, either an officer or employee - of another branch." Id. at 782, 472 N.W.2d at 412. The Nebraska Supreme Court has not directly indicated what constitutes being an employee of a state agency in a case involving art. II, § 1, and the definition may vary from situation to situation. It is simply not clear whether an enlistee in the Nebraska National Guard would be considered an employee or a member of the Executive branch.

However, Neb. Rev. Stat. § 32-561 (1) of which you inquire, on its face, addresses the vacancy issue only in the case of "enlistment in or induction into the military or naval service of the United States." As section 32-561 (1) arguably does not pertain to whether a vacancy is created when an incumbent enlists in the Nebraska National Guard, we will not at this time consider further whether enlistment in the Guard by a Legislator would violate the Separation of Powers provision.

In conclusion, it is our opinion that an amendment to section 32-561 which would allow Legislators to simultaneously serve as a commissioned officer in either the Armed Services of the United States or the Nebraska National Guard would likely be found unconstitutional under art. III, § 9 and art. II, § 1. Amendment to this statutory provision so as to allow Legislators

to serve simultaneously as enlistees in the armed services of the United States would likely be constitutionally permissible as an enlisted person is probably not an office holder as that term is employed in art. III, § 9, and being a member of the federal Executive Branch does not appear to be precluded by art. II, § 1.

Sincerely,  
JON BRUNING  
Attorney General  
(Signed) Lynn A. Melson  
Assistant Attorney General

pc: Patrick O'Donnell  
Clerk of the Legislature  
09-16-21

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Johnson asked unanimous consent to have his name added as cointroducer to LB 106. No objections. So ordered.

Senator Preister asked unanimous consent to have his name added as cointroducer to LB 182. No objections. So ordered.

### **AMENDMENTS - Print in Journal**

Senator Chambers filed the following amendment to LB 96:  
FA26

Page 2, in line 6 strike and show as stricken "shall be entitled to" and insert "may be granted"; and in line 12 strike and show as stricken "entitlement" and insert "grant".

Senator Chambers filed the following amendment to LB 96:  
FA27

Page 3 in line 3 after the comma insert "except that priority shall be given to any guard member who has been called to active duty by the federal government during a war."

Senator Chambers filed the following amendment to LB 28:  
FA28

Page 6 in line 25, strike "2007" and insert "2005"

Senator Chambers filed the following amendment to LB 28:  
FA29

P. 6 in line 10, strike "2010" and insert "2006".

Senator Chambers filed the following amendment to LB 28:  
FA30

Page 2 in lines 7 and 8 strike "an irrevocable contribution" and insert "a self-serving investment designed to achieve the purposes of any other investment"; and in line 9 strike "contribution" and insert "investment".

### VISITORS

Visitors to the Chamber were A. B. and Savanna Cox from Mullen; 16 fourth-grade students and teacher from St. John's School, Seward; Duane and Darrin Bergers from Schuyler; and 18 members of Leadership North Platte and former Senator David Bernard-Stevens.

### ADJOURNMENT

At 12:01 p.m., on a motion by Senator Wehrbein, the Legislature adjourned until 10:00 a.m., Tuesday, February 22, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

# **THIRTY-FIRST DAY - FEBRUARY 22, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **THIRTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, February 22, 2005

#### **PRAYER**

The prayer was offered by Pastor Richard Dimond, River Valley Parish, Dakota and Dixon Counties.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brashear, Jensen, and Thompson who were excused; and Senators Bourne, Hudkins, Dw. Pedersen, and Wehrbein who were excused until they arrive.

#### **CORRECTIONS FOR THE JOURNAL**

The Journal for the thirtieth day was approved.

#### **SELECT COMMITTEE REPORT Enrollment and Review**

**LEGISLATIVE BILL 126.** Placed on Select File as amended.

E & R amendment to LB 126:

AM7018

- 1 1. In the Raikes amendment, AM0354, on page 2, line 1,
- 2 strike "2005" and insert "2006".
- 3 2. On page 1, line 3; and page 74, line 17, strike
- 4 "76-416" and insert "79-416".
- 5 3. On page 7, line 15, strike "of"; and in line 27 after
- 6 the first "or" insert "of which it is".
- 7 4. On page 14, line 23, reinstate the stricken matter;
- 8 and in line 24 strike the comma.
- 9 5. On page 49, line 20, reinstate the stricken comma and
- 10 strike "or sections", show as stricken, and insert "section"; in
- 11 lines 21 and 28 reinstate the stricken "or"; and in line 28 strike
- 12 the third comma and show as stricken.
- 13 6. On page 69, line 17, strike the last comma and show

14 as stricken.

(Signed) Michael Flood, Chairperson

**STANDING COMMITTEE REPORTS**  
**Banking, Commerce and Insurance**

**LEGISLATIVE BILL 465.** Placed on General File as amended.  
Standing Committee amendment to LB 465:  
AM0446

- 1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 44-371, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 44-371. (1)(a) Except as provided in subdivision  
6 (1)(b) of this section, all proceeds, cash values, and benefits  
7 accruing under any annuity contract, under any policy or  
8 certificate of life insurance payable upon the death of the insured  
9 to a beneficiary other than the estate of the insured, or under any  
10 accident or health insurance policy shall be exempt from  
11 attachment, garnishment, or other legal or equitable process and  
12 from all claims of creditors of the insured and of the beneficiary  
13 if related to the insured by blood or marriage, unless a written  
14 assignment to the contrary has been obtained by the claimant.  
15 (b) Subdivision (1)(a) of this section shall not apply  
16 to:  
17 (i) An individual's aggregate interests greater than one  
18 hundred thousand dollars in all loan values or cash values of all  
19 matured or unmatured life insurance contracts and in all proceeds,  
20 cash values, or benefits accruing under all annuity contracts owned  
21 by such individual; and  
22 (ii) An individual's interest in all loan values or cash  
23 values of all matured or unmatured life insurance contracts and in  
24 all proceeds, cash values, or benefits accruing under all annuity  
1 contracts owned by such individual, to the extent that the loan  
2 values or cash values of any matured or unmatured life insurance  
3 contract or the proceeds, cash values, or benefits accruing under  
4 any annuity contract were established or increased through  
5 contributions, premiums, or any other payments made within three  
6 years prior to bankruptcy or within three years prior to entry  
7 against the individual of a money judgment which thereafter becomes  
8 final.  
9 (c) An insurance company shall not be liable or  
10 responsible to any person to determine or ascertain the existence  
11 or identity of any such creditors prior to payment of any such loan  
12 values, cash values, proceeds, or benefits.  
13 ~~(b) This subsection shall not apply to an individual's~~  
14 ~~aggregate interests greater than ten thousand dollars on all loan~~  
15 ~~values or cash values of all matured or unmatured life insurance~~

16 contracts or to all proceeds, cash values, or benefits accruing  
17 under all annuity contracts owned by such individual.  
18 Notwithstanding anything in this subdivision to the contrary, the  
19 aggregate exemptions any person may claim under this subdivision  
20 and subdivision (2)(b) of section 44-1089 shall not exceed ten  
21 thousand dollars.

22 (c) No insurance company shall be liable or responsible  
23 to any person to determine or ascertain the aggregate total of life  
24 insurance policy or annuity contract loan values, cash values,  
25 proceeds, or benefits for any policyholder or annuitant.

26 (2) Notwithstanding subsection (1) of this section,  
27 proceeds, cash values, and benefits accruing under any annuity  
1 contract or under any policy or certificate of life insurance  
2 payable upon the death of the insured to a beneficiary other than  
3 the estate of the insured shall not be exempt from attachment,  
4 garnishment, or other legal or equitable process by a judgment  
5 creditor of the beneficiary if the judgment against the beneficiary  
6 was based on, arose from, or was related to an act, transaction, or  
7 course of conduct for which the beneficiary has been convicted by  
8 any court of a crime punishable only by life imprisonment or death.

9 No insurance company shall be liable or responsible to any person  
10 to determine or ascertain the existence or identity of any such  
11 judgment creditor prior to payment of any such proceeds, cash  
12 values, or benefits. This subsection shall apply to any judgment  
13 rendered on or after January 1, 1995, irrespective of when the  
14 criminal conviction is or was rendered and irrespective of whether  
15 proceedings for attachment, garnishment, or other legal or  
16 equitable process were pending on March 14, 1997.

17 Sec. 2. Section 44-1089, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 44-1089. (1) No noninsurance benefit, charity, relief,  
20 or aid to be paid, provided, or rendered by any society shall be  
21 liable to attachment, garnishment, or other process, or to be  
22 seized, taken, appropriated, or applied by any legal or equitable  
23 process or operation of law to pay any debt or liability of a  
24 member or beneficiary, or any other person who may have a right  
25 thereunder, either before or after payment by the society.

26 (2)(a) ~~All~~ Except as provided in subdivision (2)(b) of  
27 this section, all proceeds, cash values, and benefits accruing  
1 under any annuity contract, under any policy or certificate of life  
2 insurance payable upon the death of the insured to a beneficiary  
3 other than the estate of the insured, or under any accident or  
4 health insurance policy shall be exempt from attachment,  
5 garnishment, or other legal or equitable process and from all  
6 claims of creditors of the insured and of the beneficiary if  
7 related to the insured by blood or marriage, unless a written  
8 assignment to the contrary has been obtained by the claimant.  
9 (b) Subdivision (2)(a) of this section shall not apply  
10 to:

11 (i) An individual's aggregate interests greater than one  
12 hundred thousand dollars in all loan values or cash values of all  
13 matured or unmatured life insurance contracts and in all proceeds,  
14 cash values, or benefits accruing under all annuity contracts owned  
15 by such individual; and

16 (ii) An individual's interest in all loan values or cash  
17 values of all matured or unmatured life insurance contracts and in  
18 all proceeds, cash values, or benefits accruing under all annuity  
19 contracts owned by such individual, to the extent that the loan  
20 values or cash values of any matured or unmatured life insurance  
21 contract or the proceeds, cash values, or benefits accruing under  
22 any annuity contract were established or increased through  
23 contributions, premiums, or any other payments made within three  
24 years prior to bankruptcy or within three years prior to entry  
25 against the individual of a money judgment which thereafter becomes  
26 final.

27 (c) A fraternal benefit society shall not be liable or  
1 responsible to any person to determine or ascertain the existence  
2 or identity of any such creditors prior to payment of any such loan  
3 values, cash values, proceeds, or benefits.

4 (b) This subsection shall not apply to an individual's  
5 aggregate interests greater than ten thousand dollars on all loan  
6 values or cash values of all matured or unmatured life insurance  
7 contracts or to all proceeds, cash values, or benefits accruing  
8 under all annuity contracts owned by such individual.  
9 Notwithstanding anything in this subdivision to the contrary, the  
10 aggregate exemptions any person may claim under subdivision (1)(b)  
11 of section 44-371 and this subdivision shall not exceed ten  
12 thousand dollars.

13 (c) No fraternal benefit society shall be liable or  
14 responsible to any person to determine or ascertain the aggregate  
15 total of policy or certificate of life insurance or annuity  
16 contract loan values, cash values, proceeds, or benefits for any  
17 policy or certificate owner or annuitant.

18 (3) Notwithstanding subsection (2) of this section,  
19 proceeds, cash values, and benefits accruing under any annuity  
20 contract or under any policy or certificate of life insurance  
21 payable upon the death of the insured to a beneficiary other than  
22 the estate of the insured shall not be exempt from attachment,  
23 garnishment, or other legal or equitable process by a judgment  
24 creditor of the beneficiary if the judgment against the beneficiary  
25 was based on, arose from, or was related to an act, transaction, or  
26 course of conduct for which the beneficiary has been convicted by  
27 any court of a crime punishable only by life imprisonment or death.

1 No fraternal benefit society shall be liable or responsible to any  
2 person to determine or ascertain the existence or identity of any  
3 such judgment creditor prior to payment of any such proceeds, cash  
4 values, or benefits. This subsection shall apply to any judgment  
5 rendered on or after January 1, 1995, irrespective of when the

6 criminal conviction is or was rendered and irrespective of whether  
7 proceedings for attachment, garnishment, or other legal or  
8 equitable process were pending on March 14, 1997.  
9 Sec. 3. Original sections 44-371 and 44-1089, Reissue  
10 Revised Statutes of Nebraska, are repealed."

(Signed) Mick Mines, Chairperson

### **Revenue**

**LEGISLATIVE BILL 299.** Placed on General File as amended.  
Standing Committee amendment to LB 299:  
AM0500

- 1 1. On page 2, strike beginning with "if" in line 25
- 2 through "protest" in line 28.

**LEGISLATIVE BILL 407.** Placed on General File as amended.  
(Standing Committee amendment, AM0501, is printed separately and  
available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 109.** Indefinitely postponed.  
**LEGISLATIVE BILL 159.** Indefinitely postponed.  
**LEGISLATIVE BILL 252.** Indefinitely postponed.  
**LEGISLATIVE BILL 324.** Indefinitely postponed.  
**LEGISLATIVE BILL 353.** Indefinitely postponed.  
**LEGISLATIVE BILL 582.** Indefinitely postponed.

(Signed) David Landis, Chairperson

### **Transportation and Telecommunications**

**LEGISLATIVE BILL 106.** Placed on General File as amended.  
Standing Committee amendment to LB 106:  
AM0469

- 1 1. On page 3, lines 24 through 27, strike the new
- 2 matter.
- 3 2. On page 4, line 1, strike the new matter and
- 4 reinstate the stricken matter; and in line 3 strike the new matter
- 5 and reinstate the stricken "(13)".
- 6 3. On page 6, line 20, strike the new matter and
- 7 reinstate the stricken matter.
- 8 4. On page 8, line 8, reinstate the stricken
- 9 "twenty-five"; and in line 9 strike "one hundred".

(Signed) Tom Baker, Chairperson

**SPECIAL COMMITTEE REPORT**  
**Executive Board**

**LEGISLATIVE BILL 588.** Placed on General File as amended.  
Special Committee amendment to LB 588:

AM0472

- 1 1. On page 5, lines 9 through 12, reinstate the stricken
- 2 matter; and in lines 18, 22, 25, and 28 reinstate the stricken
- 3 matter and strike the new matter.
- 4 2. On page 6, line 4, reinstate the stricken matter and
- 5 strike the new matter; in line 11 strike "(13)" and insert "(14)";
- 6 in line 15 strike "(14)" and insert "(15)"; in line 22 after
- 7 "50-1213" insert "and subsections (10) through (13) of section
- 8 77-27,119"; and in line 25 strike "(15)" and insert "(16)".
- 9 3. On page 7, line 21, after the period insert "If
- 10 necessary for the conduct of the performance audit, the section may
- 11 discuss or share confidential information with the chairperson of
- 12 the committee.".
- 13 4. On page 8, line 1, after "speaker" insert "or
- 14 chairperson".

(Signed) L. Patrick Engel, Chairperson

**NOTICE OF COMMITTEE HEARING**  
**Appropriations**  
Room 1003

LB 539      Wednesday, March 2, 2005      1:30 p.m.

Wednesday, March 2, 2005      1:30 p.m.

AGENCY 21 - State Fire Marshal

AGENCY 35 - Liquor Control Commission

AGENCY 78 - Commission on Law Enforcement and Criminal Justice

AGENCY 94 - Commission on Public Advocacy

AGENCY 46 - Department of Correctional Services

(Signed) Don Pederson, Chairperson

**ANNOUNCEMENT**

Senator Stuhr designates LB 71 as her priority bill.

**AMENDMENT - Print in Journal**

Senator Johnson filed the following amendment to LB 470:  
AM0485

- 1 1. On page 2, line 24, after "department" insert "and
- 2 the State Highway Commission".
- 3 2. On page 3, line 4, strike "total number of" and

4 insert "investment and"; in line 6 strike "and (f)" and insert "(f)  
5 regional planning of the area, and (g)"; and in line 7 strike  
6 "various" through "state" and insert "congressional districts".

## COMMUNICATIONS

Received petitions from the Douglas County Board of Commissioners adopted on February 15, 2005.

### MOTIONS - Approve Appointments

Senator Mines moved the adoption of the Banking, Commerce and Insurance Committee report for the confirmation of the following appointment(s) found on page 521:

Department of Banking and Finance  
John Munn

Voting in the affirmative, 31:

Aguilar	Erdman	Janssen	Pahls	Smith
Baker	Fischer	Johnson	Pederson, D.	Stuhr
Burling	Flood	Kopplin	Price	Stuthman
Byars	Foley	Landis	Raikes	
Cornett	Friend	Langemeier	Redfield	
Cudaback	Heidemann	McDonald	Schimek	
Engel	Howard	Mines	Schrock	

Voting in the negative, 0.

Present and not voting, 11:

Beutler	Combs	Kremer	Preister
Brown	Connealy	Kruse	Synowiecki
Chambers	Cunningham	Louden	

Excused and not voting, 7:

Bourne	Hudkins	Pedersen, Dw.	Wehrbein
Brashear	Jensen	Thompson	

The appointment was confirmed with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 535:

Nebraska Educational Telecommunications Commission  
Stan Carpenter

Voting in the affirmative, 30:

Aguilar	Cornett	Foley	Landis	Redfield
Baker	Cudaback	Heidemann	McDonald	Schimek
Beutler	Engel	Howard	Pahls	Schrock
Burling	Erdman	Janssen	Pederson, D.	Smith
Byars	Fischer	Johnson	Price	Stuhr
Connealy	Flood	Kopplin	Raikes	Stuthman

Voting in the negative, 0.

Present and not voting, 12:

Brown	Cunningham	Kruse	Mines
Chambers	Friend	Langemeier	Preister
Combs	Kremer	Louden	Synowiecki

Excused and not voting, 7:

Bourne	Hudkins	Pedersen, Dw.	Wehrbein
Brashear	Jensen	Thompson	

The appointment was confirmed with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 162.** E & R amendment, AM7016, printed separately and referred to on page 487, was adopted.

Senator Beutler withdrew his pending amendment, AM0385, found on page 511.

Senator Stuhr offered the following amendment:  
AM0509

(Amendments to E & R amendments, AM7016)

- 1 1. Strike original section 18 and insert the following
- 2 new section:
- 3 "Sec. 18. The commission may issue auction or lottery
- 4 permits for up to five permits each for antelope and elk and up to
- 5 twenty-five permits each for deer and wild turkey during the
- 6 calendar year. Included in that number are single species and
- 7 combination species permits and shared revenue permits that may be
- 8 issued by the commission. The shared revenue permits may be issued
- 9 under agreements with nonprofit conservation organizations and may
- 10 be issued by auction or lottery, with the commission receiving at
- 11 least eighty percent of any profit realized. The commission shall
- 12 by rule and regulation adopt limitations for any such permits that
- 13 are issued. The auction or lottery shall be conducted according to
- 14 rules and regulations adopted and promulgated by the commission.".

15 2. On page 20, lines 7 and 10, reinstate the stricken  
16 matter.

The Stuhr amendment was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 54.** E & R amendment, AM7012, found on page 469, was adopted.

Senator Louden withdrew his pending amendment, AM0433, found on page 524.

Senator Schimek renewed her pending amendment, AM0428, found on page 536.

The Schimek amendment was adopted with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

Senator Schimek renewed her pending amendment, AM0304, printed separately and referred to on page 536.

The Schimek amendment was adopted with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 263.** E & R amendment, AM7009, found on page 470, was adopted.

Senator Brown renewed her pending amendment, AM0450, found on page 535.

The Brown amendment was adopted with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 283.** E & R amendment, AM7011, found on page 470, was adopted.

Senator Raikes renewed his pending amendment, AM0473, found on page 558.

The Raikes amendment was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

**GENERAL FILE**

**LEGISLATIVE BILL 570.** Title read. Considered.

The Standing Committee amendment, AM0229, printed separately and referred to on page 448, was considered.

Pending.

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 40A.** Introduced by Redfield, 12.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 40, Ninety-ninth Legislature, First Session, 2005.

**STANDING COMMITTEE REPORT**  
**General Affairs**

**LEGISLATIVE BILL 599.** Indefinitely postponed.

(Signed) Ray Janssen, Chairperson

**AMENDMENT - Print in Journal**

Senator Chambers filed the following amendment to LB 563:  
FA31

1. Page 2, in lines 21 and 22 reinstate the stricken matter and strike the new matter;
2. In line 11 after "gin," insert "flavored malt beverage";
3. Page 9, in line 7 strike "beer" and insert "beverage".

**GENERAL FILE**

**LEGISLATIVE BILL 570.** The Standing Committee amendment, AM0229, printed separately and referred to on page 448 and considered in this day's Journal, was renewed.

The Standing Committee amendment was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

**STANDING COMMITTEE REPORTS**  
**Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 476.** Placed on General File.

**LEGISLATIVE BILL 501.** Placed on General File.

**LEGISLATIVE BILL 762.** Placed on General File.

**LEGISLATIVE RESOLUTION 25CA.** Indefinitely postponed.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Steven Danon - State Emergency Response Commission

Donald Eisenhower - State Emergency Response Commission

VOTE: Aye: Senators Brown, Burling, Fischer, Langemeier, Mines, Pahls, Schimek, Wehrbein. Nay: None. Absent: None.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Steve McCollister - Accountability and Disclosure Commission

VOTE: Aye: Senators Brown, Burling, Fischer, Langemeier, Mines, Pahls, Schimek, Wehrbein. Nay: None. Absent: None.

(Signed) DiAnna R. Schimek, Chairperson

**MESSAGE FROM THE GOVERNOR**

February 18, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed as Director of the Department of Corrections.

APPOINTEE:

Robert Houston, 4716 Lakeside Drive, Omaha NE 68135

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/  
Enclosure

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Redfield asked unanimous consent to have her name added as cointroducer to LB 389. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 12 eleventh- and twelfth-grade students and superintendent from Wymore Southern High School; Sarah Rogers, Darech Gaskill, Nate Skaggs, Taylor Seeman, and Brandon Matulka, members from Nebraska Future Business Leaders of America; 5 students and teacher from Hastings College; Geitner, Harry, and Lucy Simmons; 18 students and teacher from Emmanuel Lutheran School; and Mary Hossani from Lincoln.

### **ADJOURNMENT**

At 11:58 a.m., on a motion by Senator Janssen, the Legislature adjourned until 9:00 a.m., Wednesday, February 23, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**THIRTY-SECOND DAY - FEBRUARY 23, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****THIRTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, February 23, 2005

**PRAYER**

The prayer was offered by Pastor Kim Cottingham, St. Paul's Lutheran Church, Uehling.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Beutler and Cunningham who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-first day was approved.

**SELECT COMMITTEE REPORTS****Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 1, 2, 3, 11, 15, 16, 17, 18, 20, 33, 37, 52, 53, 59, 61, 80, 83, 88, 118, 169, 216, 261, 329, 334, and 383.

ER9000

Enrollment and Review Change to LB 20

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, the matter beginning with "the" in line 1 through line 5 and all amendments thereto have been struck and "swine; to amend section 37-524.01, Reissue Revised Statutes of Nebraska; to prohibit the release of swine for sport; to provide a penalty; to authorize destruction of feral swine; to define a term; to provide for applicability of provisions; to repeal the original section; and to declare an emergency." inserted.

(Signed) Michael Flood, Chairperson

**NOTICE OF COMMITTEE HEARING**  
**Appropriations**  
 Room 1003

LB 694      Thursday, March 3, 2005      1:30 p.m.

Thursday, March 3, 2005      1:30 p.m.

AGENCY 19 - Department of Banking and Finance

AGENCY 52 - State Fair Board

AGENCY 84 - Department of Environmental Quality

(Signed) Don Pederson, Chairperson

**AMENDMENT - Print in Journal**

Senators Beutler and Mines filed the following amendment to LB 533:  
 AM0508

(Amendments to Standing Committee amendments, AM0238)

- 1 1. On page 9, line 5, after "law" insert "and shall
- 2 specifically recite the time period within which a timely objection
- 3 may be made".

**ANNOUNCEMENT**

Senator Redfield designates LB 44 as her priority bill.

**STANDING COMMITTEE REPORT**  
**Education**

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Mary Harbaugh - Nebraska Educational Telecommunications Commission

VOTE: Aye: Senators Bourne, Byars, Howard, Kopplin, McDonald, Raikes, Schrock, and Stuhr. Nay: None. Absent: None.

(Signed) Ron Raikes, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 66.** Title read. Considered.

The Standing Committee amendment, AM0296, printed separately and referred to on page 456, was considered.

Senator Landis offered the following amendment to the Standing Committee amendment:

AM0518

(Amendments to Standing Committee amendments, AM0296)

- 1 1. On page 6, line 3, after "13-509" insert "or as  
2 finally determined if appealed".
- 3 2. On page 10, line 22, after "act" insert "or as  
4 finally determined if appealed".

The Landis amendment was adopted with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 39 ayes, 0 nays, 9 present and not voting, and 1 excused and not voting.

Advanced to E & R for review with 41 ayes, 0 nays, 7 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 66A.** Title read. Considered.

Advanced to E & R for review with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 98.** Title read. Considered.

**SENATOR JANSSEN PRESIDING**

The Standing Committee amendment, AM0057, printed separately and referred to on page 346, was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 7.** Title read. Considered.

The Standing Committee amendment, AM0037, found on page 346, was considered.

Senator Baker renewed his pending amendment, AM0308, found on page 457, to the Standing Committee amendment.

**SENATOR CUDABACK PRESIDING**

**SPEAKER BRASHEAR PRESIDING**

Pending.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 39, 40, 41, and 42 were adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 39, 40, 41, and 42.

**GENERAL FILE**

**LEGISLATIVE BILL 7.** The Baker pending amendment, AM0308, found on page 437 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

**SENATOR CUDABACK PRESIDING**

The Baker amendment was adopted with 31 ayes, 0 nays, 17 present and not voting, and 1 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 30 ayes, 2 nays, 16 present and not voting, and 1 excused and not voting.

Senator Dw. Pedersen moved for a call of the house. The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

Senator Dw. Pedersen requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 28:

Aguilar	Combs	Erdman	Jensen	Price
Beutler	Connealy	Flood	Landis	Redfield
Bourne	Cornett	Foley	Mines	Synowiecki
Brashear	Cudaback	Friend	Pahls	Thompson
Burling	Cunningham	Howard	Pedersen, Dw.	
Byars	Engel	Janssen	Preister	

Voting in the negative, 14:

Chambers	Kopplin	Louden	Schimek	Stuhr
Hudkins	Kremer	McDonald	Schrock	Wehrbein
Johnson	Langemeier	Raikes	Smith	

Present and not voting, 6:

Baker	Fischer	Pederson, D.
Brown	Heidemann	Stuthman

Absent and not voting, 1:

Kruse

Advanced to E & R for review with 28 ayes, 14 nays, 6 present and not voting, and 1 absent and not voting.

The Chair declared the call raised.

### **STANDING COMMITTEE REPORTS** **Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 671.** Placed on General File as amended.

Standing Committee amendment to LB 671:

AM0484

- 1 1. On page 9, after line 4 insert:
- 2 "(9) If the county participates in the Retirement System
- 3 for Nebraska Counties and the transferred employee participates in
- 4 the State Employees Retirement System, the transferred employee
- 5 shall immediately begin participation in the Retirement System for
- 6 Nebraska Counties under the same benefit which had been elected
- 7 pursuant to subsection (1) of section 84-1309.02."

(Signed) DiAnna R. Schimek, Chairperson

### **Health and Human Services**

**LEGISLATIVE BILL 193.** Placed on General File as amended.

Standing Committee amendment to LB 193:

AM0375

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 43-2404.01, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 43-2404.01. (1) To be eligible for participation in
- 6 either the Commission Grant Program or the County Juvenile Services
- 7 Aid Program, counties shall develop and adopt a comprehensive
- 8 juvenile services plan and submit such plan to the ~~Office of~~
- 9 ~~Juvenile Services~~ commission in accordance with the federal act and
- 10 rules and regulations adopted and promulgated by the ~~office~~
- 11 commission in consultation with the Office of Juvenile Services.
- 12 Such plan may be developed by individual counties or by multiple
- 13 counties. Any portion of the comprehensive juvenile services plan
- 14 dealing with administration, procedures, and programs of the
- 15 juvenile court shall not be submitted to the ~~Office of Juvenile~~
- 16 ~~Services~~ commission without the concurrence of the presiding judge
- 17 or judges of the court or courts having jurisdiction in juvenile
- 18 cases for the geographic area to be served. Programs or services
- 19 established by such plans shall conform to the family policy tenets

20 prescribed in sections 43-532 to 43-534.

21 (2) ~~Counties may apply to the commission for fiscal year~~  
22 ~~2001-02 and fiscal year 2002-03 for planning grants from funds~~  
23 ~~appropriated by the Legislature to aid in the development and~~  
24 ~~adoption of the comprehensive juvenile services plans. A separate~~  
25 ~~and distinct budgetary program is created within the commission~~  
26 ~~which shall only be used for county planning grants in the~~  
27 ~~development of comprehensive juvenile services plans. The annual~~  
28 ~~appropriation to the program shall not exceed one hundred~~  
29 ~~twenty-five thousand dollars. A county or multiple counties may~~  
30 ~~apply for a comprehensive juvenile services planning grant. Such~~  
31 ~~grant shall be limited to two thousand five hundred dollars per~~  
32 ~~county for a consecutive two-year period. No administrative costs~~  
33 ~~shall be paid from funds appropriated to the county planning grant~~  
34 ~~program.~~

35 (3) The commission, in consultation with the Office of  
36 Juvenile Services and the coalition shall develop or contract for  
37 the development of a statewide system to monitor and evaluate the  
38 effectiveness of plans and programs receiving funds from: (a) The  
39 Commission Grant Program and (b) the County Juvenile Services Aid  
40 Program in preventing persons from entering the juvenile justice  
41 system and in rehabilitating juvenile offenders.  
42 Sec. 2. Section 43-2404.02, Reissue Revised Statutes of  
43 Nebraska, is amended to read:

44 43-2404.02. (1) There is created a separate and distinct  
45 budgetary program within the ~~Office of Juvenile Services~~ commission  
46 to be known as the County Juvenile Services Aid Program. ~~The~~  
47 annual appropriation for this program shall not exceed four million  
48 dollars of General Funds. Funding acquired from participation in  
49 the federal act, state General Funds, and funding acquired from  
50 other sources which may be used for purposes consistent with the  
51 Juvenile Services Act and the federal act shall be used to aid  
52 counties in the establishment and provision of community-based  
53 services for accused and adjudicated juvenile offenders and to  
54 increase capacity for community-based services to juveniles.  
55 (2) The annual General Fund appropriation to the County  
56 Juvenile Services Aid Program shall be apportioned to the counties  
57 as aid in accordance with a formula established in rules and  
58 regulations adopted and promulgated by the commission. The formula  
59 shall be based on the total number of residents per county who are  
60 twelve years of age through eighteen years of age and other  
61 relevant factors as determined by the commission. The commission  
62 may require a local match of up to forty percent from counties  
63 receiving aid under such program. Any local expenditures for  
64 community-based programs for juveniles may be applied toward such  
65 match requirement. ~~the formula promulgated by the Office of~~  
66 Juvenile Services in rule and regulation. The formula shall be  
67 solely based upon the total number of residents per county who are  
68 twelve years of age through eighteen years of age as provided by

18 the most recently available federal census data. Aid provided to a  
19 county under this subsection shall be reduced by the cost to the  
20 state of care for juveniles from such county who, as determined by  
21 a risk and needs assessment instrument of the Office of Juvenile  
22 Services, do not meet the criteria established by rule and  
23 regulation under section 43-406 that identifies the types of  
24 offenders appropriate for youth rehabilitation and treatment  
25 centers or more restrictive placement, but who are in fact  
26 committed to the Office of Juvenile Services for placement at a  
27 youth rehabilitation and treatment center or more restrictive level  
1 placement.

2 (3) Funds provided to counties under the County Juvenile  
3 Services Aid Program shall be used exclusively to assist counties  
4 in implementation and operation of programs or services identified  
5 in their comprehensive juvenile services plan, including, but not  
6 limited to, programs for assessment and evaluation, prevention of  
7 delinquent behavior, diversion, shelter care, intensive juvenile  
8 probation services, restitution, family support services, and  
9 family group conferencing. No funds available appropriated or  
10 distributed under the County Juvenile Services Aid Program shall be  
11 used for construction of secure detention facilities, secure youth  
12 treatment facilities, or secure youth confinement facilities. Aid  
13 received under this section shall not be used for capital  
14 construction or the lease or acquisition of facilities and shall  
15 not be used to replace existing funding for programs or services.

16 (4) ~~Counties shall provide a minimum of a forty percent~~  
17 ~~local match from nonstate sources for aid funds received from the~~  
18 ~~state under the County Juvenile Services Aid Program. Any local~~  
19 ~~expenditures for community-based programs for juveniles may be~~  
20 ~~applied toward the local match requirement of this subsection.~~

21 (5) Any county receiving funding under the County  
22 Juvenile Services Aid Program shall file an annual report as  
23 required by rules and regulations adopted and promulgated by the  
24 Office of Juvenile Services commission. The report shall include,  
25 but not be limited to, information on the total number of juveniles  
26 served, the units of service provided, a listing of the county's  
27 annual juvenile justice budgeted and actual expenditures, and a  
1 listing of expenditures for detention, residential treatment, and  
2 nonresidential treatment.

3 (6) (5) The Office of Juvenile Services commission shall  
4 report annually to the Governor and the Legislature on the  
5 distribution and use of funds appropriated under the County  
6 Juvenile Services Aid Program. ~~On or before December 1, 2002, the~~  
7 ~~Office of Juvenile Services, in consultation with county~~  
8 ~~representatives, shall recommend to the Governor and the~~  
9 ~~Legislature a statewide structure for the delivery of juvenile~~  
10 ~~services.~~

11 (6) The commission shall adopt and promulgate rules and  
12 regulations to implement this section.

- 13 Sec. 3. This act becomes operative on July 1, 2005.  
14 Sec. 4. Original sections 43-2404.01 and 43-2404.02,  
15 Reissue Revised Statutes of Nebraska, are repealed.  
16 Sec. 5. Since an emergency exists, this act takes effect  
17 when passed and approved according to law."

**LEGISLATIVE BILL 264.** Placed on General File as amended.

Standing Committee amendment to LB 264:

AM0499

- 1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Sec. 1. Section 68-1202, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 68-1202. Social services may be provided on behalf of  
6 recipients with payments for such social services made directly to  
7 vendors. Social services shall include those mandatory and  
8 optional services to former, present, or potential social services  
9 recipients provided for under the federal Social Security Act, as  
10 ~~amended~~ such act existed on the effective date of this act, and  
11 described by the State of Nebraska in the approved State Plan for  
12 Services. Such services may include, but shall not be limited to,  
13 foster care for children, child care, family planning, treatment  
14 for alcoholism and drug addiction, treatment for persons with  
15 mental retardation, health-related services, protective services  
16 for children, homemaker services, employment services, foster care  
17 for adults, protective services for adults, transportation  
18 services, home management and other functional education services,  
19 housing improvement services, legal services, adult day services,  
20 home delivered or congregate meals, ~~and~~ educational services, and  
21 secondary prevention services, including, but not limited to, home  
22 visitation, child screening and early intervention, and parenting  
23 education programs.  
24 Sec. 2. Section 68-1207, Reissue Revised Statutes of  
1 Nebraska, is amended to read:  
2 68-1207. The Director of Health and Human Services shall  
3 supervise all public child welfare services as described by law.  
4 The director shall establish and maintain caseloads to carry out  
5 child welfare services which provide for adequate, timely, and  
6 indepth investigations and services to children and families. In  
7 establishing the standards for such caseloads, the director shall  
8 (1) include the workload factors that may differ due to geographic  
9 responsibilities, office location, and the travel required to  
10 provide a timely response in the investigation of abuse and  
11 neglect, the protection of children, and the provision of services  
12 to children and families in a uniform and consistent statewide  
13 manner and (2) consider workload standards recommended by national  
14 child welfare organizations and factors related to the attainment  
15 of such standards. The director shall consult with the appropriate  
16 employee representative in establishing such standards.

17 To carry out the provisions of this section, the  
18 Legislature shall provide funds for additional staff.  
19 Sec. 3. Section 68-1207.01, Reissue Revised Statutes of  
20 Nebraska, is amended to read:  
21 68-1207.01. ~~In each even-numbered year, the~~ The Director  
22 of Health and Human Services shall annually provide a report to the  
23 Legislature and Governor outlining the caseloads of child  
24 protective services and, the factors considered in their  
25 establishment, and the fiscal resources necessary for their  
26 maintenance. Such report shall include:  
27 (1) A ~~a~~ comparison of caseloads established by the  
1 director with the workload standards recommended by national child  
2 welfare organizations along with the amount of fiscal resources  
3 necessary to maintain such caseloads in Nebraska;  
4 (2)(a) The number of child welfare services caseworkers  
5 and case managers employed by the State of Nebraska and child  
6 welfare services workers, providing services directly to children  
7 and families, who are under contract with the State of Nebraska or  
8 employed by a private entity under contract with the State of  
9 Nebraska and (b) statistics on the average length of employment in  
10 such positions, statewide and by health and human services area;  
11 (3)(a) The average caseload of child welfare services  
12 caseworkers and case managers employed by the State of Nebraska and  
13 child welfare services workers, providing services directly to  
14 children and families, who are under contract with the State of  
15 Nebraska or employed by a private entity under contract with the  
16 State of Nebraska and (b) the outcomes of such cases, including the  
17 number of children reunited with their families, children adopted,  
18 children in guardianships, placement of children with relatives,  
19 and other permanent resolutions established, statewide and by  
20 health and human services area; and  
21 (4) The average cost of training child welfare services  
22 caseworkers and case managers employed by the State of Nebraska and  
23 child welfare services workers, providing services directly to  
24 children and families, who are under contract with the State of  
25 Nebraska or employed by a private entity under contract with the  
26 State of Nebraska, statewide and by health and human services area.  
27 Sec. 4. Original sections 68-1207 and 68-1207.01,  
1 Reissue Revised Statutes of Nebraska, are repealed."

**LEGISLATIVE BILL 319.** Placed on General File as amended.  
Standing Committee amendment to LB 319:  
AM0280

1 1. Insert the following new section:  
2 "Section 1. Section 71-4604.01, Reissue Revised Statutes  
3 of Nebraska, is amended to read:  
4 71-4604.01. (1)(a) Every manufactured home or  
5 recreational vehicle manufactured more than four months after May  
6 27, 1975, and before May 1, 1998, which is sold, offered for sale,

7 or leased in this state shall comply with the seal requirements of the state agency responsible for regulation of manufactured homes or recreational vehicles as such requirements existed on the date of manufacture.

(b) Every manufactured home or recreational vehicle manufactured on or after May 1, 1998, which is sold, offered for sale, or leased in this state shall bear a seal issued by the commission certifying that the body and frame design and construction and the plumbing, heating, and electrical systems of such manufactured home or recreational vehicle have been installed in compliance with the standards adopted by the commission, applicable at the time of manufacture. Manufactured homes destined for sale outside the United States shall be exempt from displaying the seal issued by the state if sufficient proof of such delivery is submitted to the commission for review. Recreational vehicles destined for sale or lease outside this state or the United States shall be exempt from displaying the seal issued by the state if sufficient proof of such delivery is submitted to the commission for review. The commission shall issue the recreational-vehicle seal upon an inspection of the plans and specifications for the recreational vehicle or upon an actual inspection of the recreational vehicle during or after construction if the recreational vehicle is in compliance with state standards. The commission shall issue the manufactured-home seal in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, ~~as amended~~, 42 U.S.C. 5401 et seq., as such act existed on January 1, 2005. Each seal issued by the state shall remain the property of the commission and may be revoked by the commission in the event of a violation of the conditions of issuance.

(2) The commission shall charge a fee of not less than ten dollars nor more than fifty dollars, as determined annually by the commission after published notice and a hearing, for seals issued by the commission. A seal shall be placed on each living unit within a multifamily manufactured home, and the seal fee assessed for each living unit shall be one-half of the seal fee for a single-family manufactured home. Inspection fees shall be paid for all inspections by the commission of manufacturing plants located outside of the State of Nebraska. Such fees shall consist of a reimbursement by the manufacturer of actual travel, personnel, and inspection expenses only and shall be paid prior to any issuance of seals.

(3) The commission shall adopt and promulgate rules and regulations governing the submission of plans and specifications of manufactured homes and recreational vehicles. A person who submits recreational-vehicle plans and specifications to the commission for review and approval shall be charged for engineering services of the commission provided for performing the review of the plans and specifications and related functions at a rate of not less than

5 fifteen dollars per hour nor more than fifty dollars per hour as  
6 determined ~~by rule and regulation~~ annually by the commission after  
7 published notice and hearing based on the number of hours of review  
8 time as follows:

- 9 (a) New model, one hour;
- 10 (b) Quality control manual, two hours;
- 11 (c) Typicals, one-half hour;
- 12 (d) Revisions, three-fourths hour;
- 13 (e) Engineering calculations, three-fourths hour;
- 14 (f) Initial package, fifteen hours; and
- 15 (g) Yearly renewal, two hours plus the three-fourths hour
- 16 for revisions.

17 (4) The commission shall charge each manufacturer a fee  
18 of seventy-five dollars for each inspection of any new recreational  
19 vehicle manufactured by such manufacturer and not bearing a seal  
20 issued by the State of Nebraska or some reciprocal state.

21 (5) All fees collected pursuant to the Uniform Standard  
22 Code for Manufactured Homes and Recreational Vehicles shall be  
23 remitted to the State Treasurer for credit to the Manufactured  
24 Homes and Recreational Vehicles Cash Fund which is hereby created.  
25 Money credited to the fund pursuant to this section shall be used  
26 by the commission for the purpose of administering the code. Any  
27 money in the Manufactured Homes and Recreational Vehicles Cash Fund  
1 available for investment shall be invested by the state investment  
2 officer pursuant to the Nebraska Capital Expansion Act and the  
3 Nebraska State Funds Investment Act."

4 2. On page 8, line 21, strike "71-4608" and insert  
5 "71-4604.01, 71-4608,".

6 3. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 604.** Placed on General File as amended.

Standing Committee amendment to LB 604:

AM0498

1 1. Strike the original sections and insert the following  
2 new sections:

3 "Section 1. Section 71-5707, Revised Statutes  
4 Supplement, 2004, is amended to read:

5 71-5707. (1) No person shall smoke in a public place or  
6 at a public meeting except in designated smoking areas. This  
7 subsection does not apply in cases in which an entire room or hall  
8 is used for a private social function and seating arrangements are  
9 under the control of the sponsor of the function and not of the  
10 proprietor or person in charge of such room or hall.

11 (2) With respect to factories, warehouses, and similar  
12 places of work not usually frequented by the general public, the  
13 Department of Health and Human Services Regulation and Licensure  
14 shall, in consultation with the Department of Labor, establish  
15 rules to restrict or prohibit smoking in those places of work where  
16 the close proximity of workers or the inadequacy of ventilation

17 causes smoke pollution detrimental to the health and comfort of  
18 nonsmoking employees.  
19 (3) No person shall smoke at a site where child care  
20 programs required to be licensed under section 71-1911 are  
21 provided. No person shall smoke at a site where foster care  
22 required to be licensed under section 71-1902 is provided to  
23 children under one year of age. This subsection applies to a child  
24 care program located in the home of the provider only during times  
1 one or more client's children are present in any part of the home.  
2 (4) Smoking is prohibited in all vehicles owned or leased  
3 by the state and in all buildings, and the area within ten feet of  
4 any entrance of such buildings, which are owned, leased, or  
5 occupied by the state except as provided in subsections (5), (6),  
6 and (7) of this section.  
7 (5) The following buildings or areas within buildings in  
8 which persons reside or lodge may be exempt from this section: (a)  
9 Nebraska veterans homes established pursuant to section 80-315; (b)  
10 private residences; (c) facilities and institutions under the  
11 control of the Department of Health and Human Services; and (d)  
12 overnight lodging facilities and buildings managed by the Game and  
13 Parks Commission, but no more than twenty-five percent of the  
14 overnight lodging facilities at each park location shall permit  
15 smoking.  
16 (6) Designated smoking areas not to exceed fifty percent  
17 of the space used by the public may be established in state-owned  
18 buildings at the Nebraska State Fairgrounds that possess a Class C,  
19 I, or M license for the sale of alcoholic liquor for consumption on  
20 the premises under the Nebraska Liquor Control Act.  
21 (7) Smoking may be permitted in no more than forty  
22 percent of the residential housing rooms or units owned or leased  
23 on each campus under the control of the Board of Regents of the  
24 University of Nebraska or the Board of Trustees of the Nebraska  
25 State Colleges.  
26 Sec. 2. Original section 71-5707, Revised Statutes  
27 Supplement, 2004, is repealed."

**LEGISLATIVE BILL 265.** Indefinitely postponed.

**LEGISLATIVE BILL 266.** Indefinitely postponed.

**LEGISLATIVE BILL 613.** Indefinitely postponed.

(Signed) Jim Jensen, Chairperson

### **Banking, Commerce and Insurance**

**LEGISLATIVE BILL 546.** Placed on General File.

(Signed) Mick Mines, Chairperson

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**LEGISLATIVE BILL 533.** Placed on Select File as amended.  
E & R amendment to LB 533:

AM7020

- 1 1. In the Standing Committee amendments, AM0238:
- 2 a. On page 10, line 26; page 11, line 11; and page 12,
- 3 lines 3 and 4, strike "subsection (3) of this section" and insert
- 4 "this subsection";
- 5 b. On page 17, lines 16 and 17, strike "effective date
- 6 of this act" and insert "operative date of this section";
- 7 c. On page 26, line 4, strike "(A)" and insert "(1)"; in
- 8 line 6 strike "(B)" and insert "(2)"; and in line 10 strike "(C)"
- 9 and insert "(3)"; and
- 10 d. On page 38, line 8, strike "38-3822" and insert
- 11 "30-3822"; and strike beginning with "24" in line 9 through
- 12 "insert" in line 10 and insert "28 after '8-124,' insert".
- 13 2. On page 1, line 2, strike "8-385,"; in line 6 after
- 14 "8-124," insert "8-143.01,"; in line 9 strike "and" and after
- 15 "21-17,115," insert "30-3116, 30-3117, 30-3803, 30-3805, 30-3810,
- 16 30-3822, 30-3836, 30-3837, 30-3849, 30-3855, 30-3867, 30-3878, and
- 17 30-3879,"; in line 10 after "change" insert "and eliminate"; and in
- 18 line 11 after the semicolon insert "to change credit report
- 19 requirements of licensed executive officers;"
- 20 3. On page 2, line 5, after the first semicolon insert
- 21 "to authorize total return trusts as prescribed; to change
- 22 provisions relating to the Nebraska Uniform Trust Code;"

**LEGISLATIVE BILL 499.** Placed on Select File.

**LEGISLATIVE BILL 150.** Placed on Select File as amended.  
E & R amendment to LB 150:

AM7017

- 1 1. On page 1, lines 2 and 3, strike "to create a fund;
- 2 and"; and in line 3 after "dates" insert "; and to declare an
- 3 emergency".
- 4 2. On page 10, line 13, strike "to" and insert
- 5 "through".
- 6 3. On page 12, line 6, strike "act" and insert "Nebraska
- 7 Beef Industry Development Act"; in line 14 strike "or" and insert
- 8 "nor"; and in line 23 strike "Sections 6 and 15" and insert "This
- 9 section and section 6".

**LEGISLATIVE BILL 150A.** Placed on Select File.

**LEGISLATIVE BILL 503.** Placed on Select File as amended.  
E & R amendment to LB 503:

AM7019

1 1. In the Standing Committee amendments, AM0380:  
 2 a. On page 9, line 14, strike the comma;  
 3 b. On page 33, line 3, strike the period and insert an  
 4 underscored semicolon; and  
 5 c. On page 37, line 21, strike "board", show as  
 6 stricken, and insert "Public Employees Retirement Board".  
 7 2. On page 1, strike beginning with "state" in line 1  
 8 through line 10 and insert "retirement; to amend sections 72-1238,  
 9 72-1239, 72-1243, 79-902, 79-906, 79-958, and 84-1309.01, Reissue  
 10 Revised Statutes of Nebraska, and sections 23-2309.01, 23-2310.05,  
 11 23-2312, 24-704, 81-2017, 81-2021, 84-1305.01, 84-1310.01,  
 12 84-1311.03, 84-1502, 84-1503, 84-1503.03, and 84-1512, Revised  
 13 Statutes Supplement, 2004; to change contribution and investment  
 14 provisions; to change provisions relating to membership, per diems,  
 15 and powers and duties of the Nebraska Investment Council; to change  
 16 provisions relating to the Public Employees Retirement Board and  
 17 director of the retirement systems; to change school employee  
 18 retirement calculations; to provide for an internal auditor; to  
 19 harmonize provisions; to provide operative dates; to".

(Signed) Michael Flood, Chairperson

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 71A.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 71, Ninety-ninth Legislature, First Session, 2005.

### **NOTICE OF COMMITTEE HEARINGS**

**Judiciary**  
 Room 1113

LB 50	Wednesday, March 2, 2005	1:30 p.m.
LB 409	Wednesday, March 2, 2005	1:30 p.m.
LB 617	Wednesday, March 2, 2005	1:30 p.m.
LB 620	Wednesday, March 2, 2005	1:30 p.m.
LB 660	Wednesday, March 2, 2005	1:30 p.m.
LB 674	Wednesday, March 2, 2005	1:30 p.m.

Wednesday, March 2, 2005	1:30 p.m.
Charles Brewster - Crime Victim's Reparations Committee	
William Brueggeman - Crime Victim's Reparations Committee	

LB 57	Thursday, March 3, 2005	1:30 p.m.
LB 116	Thursday, March 3, 2005	1:30 p.m.

LB 178	Thursday, March 3, 2005	1:30 p.m.
LB 535	Thursday, March 3, 2005	1:30 p.m.
LB 536	Thursday, March 3, 2005	1:30 p.m.
LB 609	Thursday, March 3, 2005	1:30 p.m.

(Signed) Patrick J. Bourne, Chairperson

### **AMENDMENTS - Print in Journal**

Senator Chambers filed the following amendment to LR 8CA:

FA32

P. 1, line 8 after "are" insert "deemed to be".

Senator Chambers filed the following amendment to LR 8CA:

FA33

1. Page 1, line 8 strike "and hunting" and insert "hunting and walking";
2. Page 2, line 4 strike "and hunt" and insert "hunt and walk".

Senator Chambers filed the following amendment to LR 8CA:

FA34

1. P. 1, line 8 strike "Fishing" and insert "Inventing, fishing";
2. P. 2, line 3 after the second appearance of "to" insert "invent,".

### **GENERAL FILE**

**LEGISLATIVE BILL 205.** Title read. Considered.

Senator Engel withdrew his pending amendment, AM0190, found on page 428.

Advanced to E & R for review with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 244.** Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 246.** Title read. Considered.

Senator Johnson renewed his pending amendment, AM0288, found on page 457.

The Johnson amendment was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Price asked unanimous consent to have her name added as cointroducer to LBs 243 and 244. No objections. So ordered.

Senator Aguilar asked unanimous consent to have his name added as cointroducer to LB 530. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Phelps/Kearney Counties Leadership; Charlie Goodman from Omaha; Kathleen Tooker and 8 Library Youth Volunteers from various communities; 75 fifth-grade students and teachers from Thomas Elementary School, Gretna; and 20 students and teacher from Madison High School.

The Doctor of the Day was Dr. Robert Rauner from Lincoln.

**ADJOURNMENT**

At 11:58 a.m., on a motion by Senator Bourne, the Legislature adjourned until 9:00 a.m., Thursday, February 24, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**THIRTY-THIRD DAY - FEBRUARY 24, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****THIRTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, February 24, 2005

**PRAYER**

The prayer was offered by Senator Price.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Beutler, Brashear, Combs, Cunningham, Janssen, Jensen, Kruse, Landis, Mines, Dw. Pedersen, D. Pederson, and Raikes who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-second day was approved.

**MESSAGE FROM THE GOVERNOR**

February 22, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Please withdraw the following names from confirmation to the Nebraska Transit and Rail Advisory Council, due to council termination on June 30, 2005.

Duane Eitel, 3505 S 31st Street, Lincoln NE 68502  
Georgia Janssen, RR #1 Box 144, Winside NE 68790  
David Gilfillan, 2410 Lincoln Street, Beatrice NE 68310  
Roger Figard, 5411 Glade, Lincoln NE 68506  
Paul Mullen, 2222 Cuming Street, Omaha NE 68102

Anne Boyle, 420 South 11th #303, Omaha NE 68102  
Roberto Munguia, 201 N 7th Street, Lincoln NE 68501  
Gary Ruegg, 16314 Seward Circle, Omaha NE 68118  
Thomas Mulligan, 12311 Charles Street, Omaha NE 68154  
Steve McBeth, 6010 Rolling Hills Blvd, Lincoln NE 68512

Thank you.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/

**NOTICE OF COMMITTEE HEARING**  
**Appropriations**  
Room 1524

Tuesday, March 8, 2005  
AGENCY 11 - Attorney General  
AGENCY 13 - Department of Education  
AGENCY 34 - Library Commission  
AGENCY 69 - Arts Council

1:30 p.m.

(Signed) Don Pederson, Chairperson

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**Correctly Engrossed**

The following bills were correctly engrossed: LBs 21, 89, 119, 175, and 176.

ER9001

Enrollment and Review Change to LB 119

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Mines-Beutler amendment, AM0398, on page 1, line 15, the third "the" has been struck, shown as stricken, and "such" inserted.
2. In the E & R amendment, AM7006:
  - a. On page 1, line 11, "29 to 34" has been struck and "30 to 35" inserted; and
  - b. On page 2, line 7, "32" has been struck and "33" inserted; in line 16 "30" has been struck and "31" inserted; in line 17 "31" has been struck and "32" inserted; and in line 24 "38 to 40" has been struck and "39 to 41" inserted.
3. On page 1, line 6, the second comma has been struck and "to" inserted.

4. On page 91, line 10, "(i)" has been struck and "i." inserted; in line 15 "(ii)" has been struck and "ii." inserted; and in line 20 "(iii)" has been struck and "iii." inserted.

ER9002

### Enrollment and Review Change to LB 175

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, the matter beginning with "sections" in line 1 through line 5 has been struck and "section 71-1,107.30, Reissue Revised Statutes of Nebraska; to change provisions relating to the authority to prescribe drugs and devices; and to repeal the original section." inserted.

(Signed) Michael Flood, Chairperson

### MOTIONS - Approve Appointments

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 549:

Game and Parks Commission  
Jerrold Burke

Voting in the affirmative, 26:

Baker	Fischer	Kopplin	Price	Synowiecki
Byars	Friend	Kremer	Redfield	Wehrbein
Cornett	Heidemann	Langemeier	Schimek	
Cudaback	Howard	Louden	Schrock	
Engel	Hudkins	McDonald	Smith	
Erdman	Johnson	Pahls	Stuhr	

Voting in the negative, 0.

Present and not voting, 11:

Aguilar	Burling	Flood	Stuthman
Bourne	Chambers	Foley	Thompson
Brown	Connealy	Preister	

Excused and not voting, 12:

Beutler	Cunningham	Kruse	Pedersen, Dw.
Brashear	Janssen	Landis	Pederson, D.
Combs	Jensen	Mines	Raikes

The appointment was confirmed with 26 ayes, 0 nays, 11 present and not

voting, and 12 excused and not voting.

Senator Schimek moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 583:

Accountability and Disclosure Commission  
Steve McCollister

Voting in the affirmative, 25:

Byars	Erdman	Hudkins	Mines	Smith
Connealy	Fischer	Kopplin	Pahls	Stuhr
Cornett	Friend	Langemeier	Pederson, D.	Stuthman
Cudaback	Heidemann	Louden	Price	Synowiecki
Engel	Howard	McDonald	Redfield	Wehrbein

Voting in the negative, 0.

Present and not voting, 15:

Aguilar	Brown	Flood	Kremer	Schimek
Baker	Burling	Foley	Preister	Schrock
Bourne	Chambers	Johnson	Raikes	Thompson

Excused and not voting, 9:

Beutler	Combs	Janssen	Kruse	Pedersen, Dw.
Brashear	Cunningham	Jensen	Landis	

The appointment was confirmed with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Senator Schimek moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 583:

State Emergency Response Commission  
Steven Danon  
Donald Eisenhower

Voting in the affirmative, 28:

Aguilar	Engel	Johnson	Pahls	Stuhr
Brashear	Erdman	Kopplin	Pederson, D.	Stuthman
Brown	Fischer	Kremer	Price	Synowiecki
Burling	Heidemann	Langemeier	Raikes	Wehrbein
Byars	Howard	Louden	Schimek	
Cudaback	Hudkins	McDonald	Smith	

Voting in the negative, 0.

Present and not voting, 13:

Baker	Connealy	Foley	Preister	Thompson
Bourne	Cornett	Friend	Redfield	
Chambers	Flood	Mines	Schrock	

Excused and not voting, 8:

Beutler	Cunningham	Jensen	Landis
Combs	Janssen	Kruse	Pedersen, Dw.

The appointments were confirmed with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

### **GENERAL FILE**

**LEGISLATIVE BILL 71.** Title read. Considered.

The Standing Committee amendment, AM0343, found on page 477, was considered.

Senator Kremer offered the following amendment to the Standing Committee amendment:

AM0569

(Amendments to Standing Committee amendments, AM0343)

- 1 1. Insert the following new section:
- 2 "Sec. 14. It is the intent of the Legislature to
- 3 appropriate one million dollars each year for three consecutive
- 4 years to fund the Agricultural Opportunities and Value-Added
- 5 Partnerships Act, making such grant funds available on and after
- 6 January 1, 2006."
- 7 2. Renumber the remaining section accordingly.

Pending.

### **STANDING COMMITTEE REPORTS** **Agriculture**

**LEGISLATIVE BILL 531.** Placed on General File as amended.

Standing Committee amendment to LB 531:

AM0514

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. The Department of Agriculture may, within
- 4 the framework and consistent with standards of the National Animal
- 5 Identification System, cooperate and coordinate with the Animal and
- 6 Plant Health Inspection Service of the United States Department of
- 7 Agriculture and other local, state, and national agencies and

8 organizations, public or private, to define premises where  
9 livestock are located, to develop a premises registration system  
10 for Nebraska, and to implement other state components of a national  
11 uniform system of animal identification.

12 Sec. 2. (1) Any information that a person provides to  
13 the Department of Agriculture for purposes of premises registration  
14 or otherwise for voluntary participation in or compliance with a  
15 uniform system of animal identification shall not be subject to  
16 public inspection pursuant to sections 84-712 to 84-712.09. The  
17 department and its employees or agents shall not disclose such  
18 information to any other person or agency except when such  
19 disclosure:

20 (a) Is authorized by the person who provides the  
21 information; or

22 (b) Is necessary for purposes of disease surveillance or  
23 to carry out epidemiological investigations related to incidences  
24 of animal disease.

1 (2) The department may disclose information as authorized  
2 by this section subject to any confidentiality requirements that  
3 the department determines are appropriate under the circumstances.

4 (3) Any person who violates this section shall be subject  
5 to prosecution and penalty for official misconduct pursuant to  
6 section 28-924.

7 (4) Nothing in this section shall be construed to  
8 prohibit the department from discussing, reporting, or otherwise  
9 disclosing the progress or results of disease surveillance  
10 activities or epidemiological investigation related to incidences  
11 of animal disease.

12 Sec. 3. The Revisor of Statutes shall assign sections 1  
13 and 2 of this act within sections 54-701 to 54-705.".

(Signed) Bob Kremer, Chairperson

### **Business and Labor**

**LEGISLATIVE BILL 166.** Placed on General File as amended.  
Standing Committee amendment to LB 166:  
AM0566

1 1. On page 2, line 20, strike "one hundred" and insert  
2 "fifty"; in line 25 after "self-employed" insert "with a maximum of  
3 one full-time or one part-time employee."; and strike beginning  
4 with "and" in line 25 through the period in line 26 and show as  
5 stricken.

(Signed) Douglas Cunningham, Chairperson

**NOTICE OF COMMITTEE HEARING****Business and Labor**

Room 2102

LB 420	Monday, March 14, 2005	1:30 p.m.
LB 641	Monday, March 14, 2005	1:30 p.m.
LB 608	Monday, March 14, 2005	1:30 p.m.
LB 656	Monday, March 14, 2005	1:30 p.m.
LB 661	Monday, March 14, 2005	1:30 p.m.
LB 736	Monday, March 14, 2005	1:30 p.m.
LB 489	Monday, March 14, 2005	1:30 p.m.

(Signed) Douglas Cunningham, Chairperson

**AMENDMENT - Print in Journal**

Senator Kremer filed the following amendment to LB 51:  
AM0565

1 1. On page 3, strike beginning with "Such" in line 8  
2 through "Agriculture" in line 10 and insert: "Laboratory testing  
3 services authorized by this section shall not be performed beyond  
4 the scope of the Department of Agriculture's statutory authority  
5 and shall be limited to one or more of the following: (a) Acts of  
6 terrorism, natural disaster, or other public health or agricultural  
7 emergency; (b) testing performed in accordance with  
8 intergovernmental agreements for laboratory testing services; and  
9 (c) testing performed in connection with validation studies for  
10 analytical techniques and methods developed by entities whose  
11 function is establishing or approving official laboratory  
12 analytical standards".

**STANDING COMMITTEE REPORT****Agriculture**

The Agriculture Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Tamas R. Allan - Nebraska State Fair Board

VOTE: Aye: Senator(s): Kremer, Burling, Chambers, Cunningham, Erdman, Fischer, Preister, Wehrbein. Nay: None. Absent: None.

(Signed) Bob Kremer, Chairperson

### **ANNOUNCEMENTS**

Senator Howard designates LB 264 as her priority bill.

Senator Brown designates LB 546 as her priority bill.

### **GENERAL FILE**

**LEGISLATIVE BILL 71.** Senator Chambers asked unanimous consent to bracket until May 30, 2005.

Senator Stuhr objected.

Senator Chambers offered the following motion:  
Bracket until May 30, 2005.

Senator Chambers withdrew his motion to bracket.

Senator Kremer withdrew his pending amendment, AM0569, found in this day's Journal.

The Standing Committee amendment, AM0343, found on page 477 and considered in this day's Journal, was renewed.

The Standing Committee amendment was adopted with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

Senator Stuhr moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Advanced to E & R for review with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 71A.** Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 243.** Title read. Considered.

The Standing Committee amendment, AM0055, found on page 346, was adopted with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 243A.** Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 76.** Title read. Considered.

**SENATOR SCHIMEK PRESIDING**

**SENATOR CUDABACK PRESIDING**

Advanced to E & R for review with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

## **SELECT COMMITTEE REPORTS**

### **Enrollment and Review**

#### **Correctly Engrossed**

The following bills were correctly engrossed: LBs 162 and 301.

ER9005

Enrollment and Review Change to LB 301

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Jensen amendment, AM0441, on page 4, line 2, "50, 52 to 63" has been struck and "65" inserted.

2. In the E & R amendments, AM7008, on page 1, line 6, "and 76" has been struck and "76, and 78" inserted; and in line 14 "disease prevention and immunization programs," has been inserted after the first comma and "state public health personnel," has been inserted after the second comma.

3. On page 1, line 8, "71-5177," has been struck; in line 11 "and" has been struck and "and 81-3202," has been inserted before "Revised"; in line 15 "and" has been inserted after the second comma; and in line 16 ", and emergency medical services" has been struck.

4. On page 41, lines 9 and 27, "such sections" has been struck, shown as stricken, and "the act" inserted.

5. On page 75, line 21, "71-5714," has been struck; in line 26 "71-1913.01 to 71-1913.03," has been inserted after the second comma; and in line 27 "71-5714," has been inserted after the first comma.

(Signed) Michael Flood, Chairperson

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 546A.** Introduced by Brown, 6.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 546, Ninety-ninth Legislature, First Session, 2005.

### **AMENDMENT - Print in Journal**

Senator Landis filed the following amendment to LB 169:  
AM0537

(Amendments to Final Reading copy)

- 1 1. On page 2, lines 4 through 11, strike the new matter
- 2 and reinstate the stricken matter; and in line 16 after the period
- 3 insert "Cities of the primary class may also issue revenue bonds
- 4 for any public purpose in connection with or related to any
- 5 revenue-producing facility.".

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Schimek asked unanimous consent to have her name added as cointroducer to LB 376. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 10 students and teacher from Grand Island Christian School; 40 fourth-grade students and teachers from Lincoln Christian School; Tami Kavan from Wahoo; Ken Ebel from Columbus; and high school students and teacher from O'Neill.

The Doctor of the Day was Dr. Brad Hupp from Albion.

### **ADJOURNMENT**

At 11:57 a.m., on a motion by Senator Janssen, the Legislature adjourned until 9:00 a.m., Friday, February 25, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**THIRTY-FOURTH DAY - FEBRUARY 25, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****THIRTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, February 25, 2005

**PRAYER**

The prayer was offered by Pastor Thomas Schmitt, Zion Lutheran Church, Omaha.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Aguilar, Baker, Brown, Cunningham, and Dw. Pedersen who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-third day was approved.

**SELECT COMMITTEE REPORTS  
Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 54, 263, and 283.

ER9004

Enrollment and Review Change to LB 54

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Schimek amendment, AM0304:
  - a. Sections 15, 16, 19, 21, 22, 24, 29, 33, 34, and 35 have been renumbered as sections 17, 18, 21, 23, 24, 26, 31, 35, 36, and 37, respectively;
  - b. On page 11, line 7, "the" has been struck and shown as stricken;
  - c. On page 14, the matter beginning with "8" in line 23 through "34" in

line 24 has been struck and "10 to 13, 15, 21 to 28, 30 to 34, and 36" inserted; and

d. On page 15, line 5, "48-227, 48-229," has been inserted after the second comma.

2. In the Schimek amendment, AM0428, amendment 2 has been struck.

3. On page 1, the matter beginning with "veterans" in line 1 through line 13 has been struck and "government service; to amend sections 12-104, 19-1830, 23-1309, 23-1310, 37-420, 48-225, 48-227, 48-229, 60-311.03, 60-311.04, 60-311.08, 60-3002, 71-605, 71-1002, 77-202.24, 77-3508, 77-3509, 77-3513, 77-3514, 80-102, 80-104 to 80-107, 80-316, 80-318, 80-325, 80-401.01, 80-401.03, 80-401.06, 80-410, and 80-412, Reissue Revised Statutes of Nebraska, and sections 12-1301 and 80-401.02, Revised Statutes Supplement, 2004; to redefine terms relating to veterans; to change provisions for a veteran hiring preference and qualifications for veterans' benefits; to reorganize provisions relating to veterans; to modify exemptions for veterans; to clarify eligibility for veterans' benefits; to eliminate a retraining program; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal section 81-1393, Reissue Revised Statutes of Nebraska; and to declare an emergency." inserted.

(Signed) Michael Flood, Chairperson

## **STANDING COMMITTEE REPORTS**

### **Revenue**

**LEGISLATIVE BILL 38.** Placed on General File as amended.

(Standing Committee amendment, AM0567, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 113.** Indefinitely postponed.

(Signed) David Landis, Chairperson

## **Transportation and Telecommunications**

**LEGISLATIVE BILL 77.** Placed on General File.

**LEGISLATIVE BILL 78.** Placed on General File.

**LEGISLATIVE BILL 715.** Indefinitely postponed.

**LEGISLATIVE BILL 721.** Indefinitely postponed.

(Signed) Tom Baker, Chairperson

## **SPECIAL COMMITTEE REPORT**

### **Executive Board**

**LEGISLATIVE BILL 180.** Placed on General File.

(Signed) L. Patrick Engel, Chairperson

**UNANIMOUS CONSENT - Date Change**

Senator Cunningham asked unanimous consent to permit the Business and Labor Committee to hold public hearings on Tuesday, March 15, 2005. No objections. So ordered.

**NOTICE OF COMMITTEE HEARINGS****Business and Labor**

Room 2102

LB 741	Tuesday, March 15, 2005	1:30 p.m.
LB 743	Tuesday, March 15, 2005	1:30 p.m.
LB 749	Tuesday, March 15, 2005	1:30 p.m.
LB 737	Tuesday, March 15, 2005	1:30 p.m.
LB 738	Tuesday, March 15, 2005	1:30 p.m.

Tuesday, March 15, 2005 1:30 p.m.

David J. Cullan - Commission of Industrial Relations

Martin Kasl - Boiler Safety Code Advisory Board

Thomas DiMartino - Boiler Safety Code Advisory Board

(Signed) Douglas Cunningham, Chairperson

**Appropriations**

Room 1003

LB 296	Wednesday, March 9, 2005	1:30 p.m.
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Wednesday, March 9, 2005 1:30 p.m.

AGENCY 31 - Military Department

AGENCY 33 - Game and Parks Commission

AGENCY 54 - State Historical Society

AGENCY 72 - Department of Economic Development

LB 195	Thursday, March 10, 2005	1:30 p.m.
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LB 679	Thursday, March 10, 2005	1:30 p.m.
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Thursday, March 10, 2005 1:30 p.m.

AGENCY 24 - Department of Motor Vehicles

AGENCY 40 - Motor Vehicle Industry Licensing Board

AGENCY 17 - State Aeronautics Department

AGENCY 90 - Railway Council

AGENCY 27 - Department of Roads

Friday, March 11, 2005 1:30 p.m.

AGENCY 28 - Department of Veterans' Affairs

AGENCY 37 - Workers' Compensation Court

AGENCY 75 - Investment Council

AGENCY 77 - Commission of Industrial Relations  
AGENCY 85 - Public Employees Retirement Systems

(Signed) Don Pederson, Chairperson

**Transportation and Telecommunications**  
Room 1113

Monday, March 14, 2005

1:30 p.m.

Susan Heider - Nebraska Information Technology Commission  
Jess Hull - Nebraska Motor Vehicle Industry Licensing Board

(Signed) Tom Baker, Chairperson

**REPORTS**

The following reports were received by the Legislature:

**Health and Human Services System**

Report - Number of adults declared ineligible for cash assistance under  
Section 68-1723

**Property Assessment and Taxation, Department of**

Redevelopment Projects for Cities Using Tax Increment Financing Report

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of February 24, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Abboud, Chris, Public Affairs Group  
Scheels All Sports Inc.

American Communications Group, Inc.  
City of Lincoln  
Counseling Association, Nebraska (Withdrawn 02/23/2005)  
International Assoc. Heat & Frost Insulators & Asbestos Workers,  
Local 39

Jensen, Ronald L.  
Counseling Association, Nebraska

Siefken, Kathy  
Shazam

**MOTION - Approve Appointment**

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 586:

Nebraska Educational Telecommunications Commission  
Mary Harbaugh

Voting in the affirmative, 31:

Bourne	Foley	Kopplin	Pederson, D.	Stuthman
Brashear	Friend	Kremer	Preister	Synowiecki
Burling	Heidemann	Landis	Price	Wehrbein
Byars	Howard	Louden	Raikes	
Engel	Janssen	McDonald	Redfield	
Erdman	Jensen	Mines	Smith	
Flood	Johnson	Pahls	Stuhr	

Voting in the negative, 0.

Present and not voting, 12:

Beutler	Connealy	Hudkins	Schimek
Chambers	Cornett	Kruse	Schrock
Combs	Cudaback	Langemeier	Thompson

Excused and not voting, 6:

Aguilar	Brown	Fischer
Baker	Cunningham	Pedersen, Dw.

The appointment was confirmed with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 51.** Senator Kremer withdrew his pending amendment, AM0477, found on page 558.

Senator Kremer renewed his pending amendment, AM0565, found on page 607.

The Kremer amendment was adopted with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Senator Beutler offered the following amendment:

FA35

- 1 1. On page 3, line 10, after the period insert "Every
- 2 department contract to perform laboratory testing services
- 3 shall include

4 provisions clearly stating that the State of Nebraska shall not be  
5 liable to any party to the contract or to any third person for  
6 negligence of the department in analyzing samples or in publishing  
7 testing findings that result in injury to persons or damage to  
8 property."

The Beutler amendment was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

### ANNOUNCEMENT

Pursuant to Rule 8, Sec. 3, the Appropriations Committee presented its preliminary report on February 25, 2005, summarizing the recommended appropriations for the following biennium.

### SENATOR CUDABACK PRESIDING

#### SELECT FILE

**LEGISLATIVE BILL 533.** E & R amendment, AM7020, found on page 597, was adopted.

Senators Beutler and Mines renewed their pending amendment, AM0508, found on page 586.

The Beutler-Mines amendment was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Senator Mines offered the following amendment:  
AM0581

(Amendments to Standing Committee amendments, AM0238)

- 1 1. On page 15, line 15, after "and" insert "not".

The Mines amendment was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 499.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 503.** E & R amendment, AM7019, found on page 597, was adopted.

Senator Stuhr offered the following amendment:  
AM0575

(Amendments to Standing Committee amendments, AM0380)

- 1 1. On page 1, line 15; and page 32, line 27, strike
- 2 "found" and insert "under the retirement systems described".
- 3 2. On page 2, line 13, strike "An" and insert "Beginning
- 4 July 1, 2006, an"; and in line 23 strike "(h)" and insert "(b)".
- 5 3. On page 5, lines 5 and 6, reinstate the stricken
- 6 "balanced account" and strike the new matter; and in line 7 strike
- 7 "(h)" and insert "(d)".
- 8 4. On page 19, line 14, after "Code" insert "as defined
- 9 in section 49-801.01"; in line 23 strike "or" and show as stricken;
- 10 and in line 25 after "pay" insert ", or (vii) beginning on the
- 11 effective date of Legislative Bill 329, Ninety-ninth Legislature,
- 12 First Session, 2005, employer contributions made for the purposes
- 13 of separation payments made at retirement and early retirement
- 14 inducements as provided for in section 79-514".
- 15 5. On page 20, line 14, after the second comma insert
- 16 "through June 30, 2005,".
- 17 6. On page 24, line 27, strike "eight and
- 18 three-hundredths" and insert "seven and ninety-eight hundredths".
- 19 7. On page 25, line 4, strike "eighty-eight" and insert
- 20 "eighty-three".
- 21 8. On page 33, line 22, strike "An" and insert
- 22 "Beginning on July 1, 2006, an".
- 23 9. On page 34, line 5, strike "(h)" and insert "(b)".
- 1 10. On page 36, lines 14 and 15, reinstate the stricken
- 2 "balanced account" and strike the new matter; and in line 16 strike
- 3 "(h)" and insert "(d)".
- 4 11. On page 44, line 11, after "year" insert "and
- 5 present them"; and in line 22 after the second "and" insert
- 6 "assure".

The Stuhr amendment was adopted with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Pending.

## ANNOUNCEMENT

The Chair announced today is Senator Kruse's birthday.

## SELECT FILE

**LEGISLATIVE BILL 503.** Senator Bourne offered the following amendment:  
AM0598

(Amendments to AM0380)

- 1 1. Insert the following new sections:
- 2 "Sec. 8. Section 77-3442, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 77-3442. (1) Property tax levies for the support of

5 local governments for fiscal years beginning on or after July 1,  
6 1998, shall be limited to the amounts set forth in this section  
7 except as provided in section 77-3444.

8 (2)(a) Except as provided in subdivision (2)(b) of this  
9 section, school districts and multiple-district school systems may  
10 levy a maximum levy of (i) one dollar and five cents per one  
11 hundred dollars of taxable valuation of property subject to the  
12 levy for fiscal years 2003-04 through 2007-08 and (ii) one dollar  
13 per one hundred dollars of taxable valuation of property subject to  
14 the levy for all fiscal years except fiscal years 2003-04 through  
15 2007-08. Excluded from this limitation are amounts levied to pay  
16 for sums agreed to be paid by a school district to certificated  
17 employees in exchange for a voluntary termination of employment and  
18 amounts levied to pay for special building funds and sinking funds  
19 established for projects commenced prior to April 1, 1996, for  
20 construction, expansion, or alteration of school district  
21 buildings. For purposes of this subsection, commenced means any  
22 action taken by the school board on the record which commits the  
23 board to expend district funds in planning, constructing, or  
1 carrying out the project.

2 (b) Federal aid school districts may exceed the maximum  
3 levy prescribed by subdivision (2)(a) of this section only to the  
4 extent necessary to qualify to receive federal aid pursuant to  
5 Title VIII of Public Law 103-382, as such title existed on  
6 September 1, 2001. For purposes of this subdivision, federal aid  
7 school district means any school district which receives ten  
8 percent or more of the revenue for its general fund budget from  
9 federal government sources pursuant to Title VIII of Public Law  
10 103-382, as such title existed on September 1, 2001.

11 (c) For school fiscal year 2002-03 through school fiscal  
12 year 2007-08, school districts and multiple-district school systems  
13 may, upon a three-fourths majority vote of the school board of the  
14 school district, the board of the unified system, or the school  
15 board of the high school district of the multiple-district school  
16 system that is not a unified system, exceed the maximum levy  
17 prescribed by subdivision (2)(a) of this section in an amount equal  
18 to the net difference between the amount of state aid that would  
19 have been provided under the Tax Equity and Educational  
20 Opportunities Support Act without the temporary aid adjustment  
21 factor and if subdivision (3) of section 79-1007.02 and subsections  
22 (2) and (5) of section 79-1008.01 had applied for the ensuing  
23 school fiscal year for the school district or multiple-district  
24 school system and the amount provided with the temporary aid  
25 adjustment factor and if subdivision (4) of section 79-1007.02 and  
26 subsections (3) and (6) of section 79-1008.01 had applied. The  
27 State Department of Education shall certify to the school districts  
1 and multiple-district school systems the amount by which the  
2 maximum levy may be exceeded for the next school fiscal year  
3 pursuant to subdivision (2)(c) of this section on or before

4 February 15 for school fiscal years 2004-05 through 2007-08.

5 (3) Community colleges may levy a maximum levy on each  
6 one hundred dollars of taxable property subject to the levy of  
7 seven cents for fiscal year 2000-01 and each fiscal year  
8 thereafter, plus amounts allowed under subsection (7) of section  
9 85-1536.01.

10 (4) Natural resources districts may levy a maximum levy  
11 of four and one-half cents per one hundred dollars of taxable  
12 valuation of property subject to the levy. Natural resources  
13 districts shall also have the power and authority to levy a tax  
14 equal to the dollar amount by which their restricted funds budgeted  
15 to administer and implement ground water management activities and  
16 integrated management activities under the Nebraska Ground Water  
17 Management and Protection Act exceed their restricted funds  
18 budgeted to administer and implement ground water management  
19 activities and integrated management activities for FY2003-04, not  
20 to exceed one cent on each one hundred dollars of taxable valuation  
21 annually on all of the taxable property within the district.

22 (5) Educational service units may levy a maximum levy of  
23 one and one-half cents per one hundred dollars of taxable valuation  
24 of property subject to the levy.

25 (6)(a) Incorporated cities and villages which are not  
26 within the boundaries of a municipal county may levy a maximum levy  
27 of forty-five cents per one hundred dollars of taxable valuation of  
1 property subject to the levy plus an additional five cents per one  
2 hundred dollars of taxable valuation to provide financing for the  
3 municipality's share of revenue required under an agreement or  
4 agreements executed pursuant to the Interlocal Cooperation Act or  
5 the Joint Public Agency Act. The maximum levy shall include  
6 amounts levied to pay for sums to support a library pursuant to  
7 section 51-201, museum pursuant to section 51-501, visiting  
8 community nurse, home health nurse, or home health agency pursuant  
9 to section 71-1637, or statue, memorial, or monument pursuant to  
10 section 80-202.

11 (b) Incorporated cities and villages which are within the  
12 boundaries of a municipal county may levy a maximum levy of ninety  
13 cents per one hundred dollars of taxable valuation of property  
14 subject to the levy. The maximum levy shall include amounts paid  
15 to a municipal county for county services, amounts levied to pay  
16 for sums to support a library pursuant to section 51-201, a museum  
17 pursuant to section 51-501, a visiting community nurse, home health  
18 nurse, or home health agency pursuant to section 71-1637, or a  
19 statue, memorial, or monument pursuant to section 80-202.

20 (7) Sanitary and improvement districts which have been in  
21 existence for more than five years may levy a maximum levy of forty  
22 cents per one hundred dollars of taxable valuation of property  
23 subject to the levy, and sanitary and improvement districts which  
24 have been in existence for five years or less shall not have a  
25 maximum levy. Unconsolidated sanitary and improvement districts

26 which have been in existence for more than five years and are  
27 located in a municipal county may levy a maximum of eighty-five  
1 cents per hundred dollars of taxable valuation of property subject  
2 to the levy.

3 (8) Counties may levy or authorize a maximum levy of  
4 fifty cents per one hundred dollars of taxable valuation of  
5 property subject to the levy, except that five cents per one  
6 hundred dollars of taxable valuation of property subject to the  
7 levy may only be levied to provide financing for the county's share  
8 of revenue required under an agreement or agreements executed  
9 pursuant to the Interlocal Cooperation Act or the Joint Public  
10 Agency Act. The maximum levy shall include amounts levied to pay  
11 for sums to support a library pursuant to section 51-201 or museum  
12 pursuant to section 51-501. The county may allocate up to fifteen  
13 cents of its authority to other political subdivisions subject to  
14 allocation of property tax authority under subsection (1) of  
15 section 77-3443 and not specifically covered in this section to  
16 levy taxes as authorized by law which do not collectively exceed  
17 fifteen cents per one hundred dollars of taxable valuation on any  
18 parcel or item of taxable property. The county may allocate to one  
19 or more other political subdivisions subject to allocation of  
20 property tax authority by the county under subsection (1) of  
21 section 77-3443 some or all of the county's five cents per one  
22 hundred dollars of valuation authorized for support of an agreement  
23 or agreements to be levied by the political subdivision for the  
24 purpose of supporting that political subdivision's share of revenue  
25 required under an agreement or agreements executed pursuant to the  
26 Interlocal Cooperation Act or the Joint Public Agency Act. If an  
27 allocation by a county would cause another county to exceed its  
1 levy authority under this section, the second county may exceed the  
2 levy authority in order to levy the amount allocated.

3 (9) Municipal counties may levy or authorize a maximum  
4 levy of one dollar per one hundred dollars of taxable valuation of  
5 property subject to the levy. The municipal county may allocate  
6 levy authority to any political subdivision or entity subject to  
7 allocation under section 77-3443.

8 (10) The following property tax levies are not included  
9 in the levy limits established by this section:

10 (a) Property tax levies for judgments, except judgments  
11 or orders from the Commission of Industrial Relations, obtained  
12 against a political subdivision which require or obligate a  
13 political subdivision to pay such judgment, to the extent such  
14 judgment is not paid by liability insurance coverage of a political  
15 subdivision;

16 (b) Property tax levies ; for preexisting lease-purchase  
17 contracts approved prior to July 1, 1998;

18 (c) Property tax levies ; for bonded indebtedness  
19 approved according to law and secured by a levy on property;

20 (d) Property tax levies ; ~~and~~ for payments by a public

21 airport to retire interest-free loans from the Department of  
22 Aeronautics in lieu of bonded indebtedness at a lower cost to the  
23 public airport; and  
24 (e) For fiscal years 2005-06 and 2006-07, property tax  
25 levies by school districts and educational service units for any  
26 increase in retirement costs over the retirement costs budgeted and  
27 spent for the prior fiscal year, are not included in the levy  
1 limits established by this section.

2 (11) The limitations on tax levies provided in this  
3 section are to include all other general or special levies provided  
4 by law. Notwithstanding other provisions of law, the only  
5 exceptions to the limits in this section are those provided by or  
6 authorized by sections 77-3442 to 77-3444.

7 (12) Tax levies in excess of the limitations in this  
8 section shall be considered unauthorized levies under section  
9 77-1606 unless approved under section 77-3444.

10 (13) For purposes of sections 77-3442 to 77-3444,  
11 political subdivision means a political subdivision of this state  
12 and a county agricultural society.

13 Sec. 9. Section 77-3446, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 77-3446. Base limitation means the budget limitation  
16 rate applicable to school districts and the limitation on growth of  
17 restricted funds applicable to other political subdivisions prior  
18 to any increases in the rate as a result of special actions taken  
19 by a supermajority of any governing board or of any exception  
20 allowed by law. The base limitation is two and one-half percent  
21 until adjusted, except that the base limitation for school  
22 districts for school fiscal years 2003-04 and 2004-05 is zero, plus  
23 for fiscal years 2005-06 and 2006-07 the dollar amount of increase  
24 in retirement costs over the prior fiscal year for school districts  
25 and educational service units expressed as a percentage of  
26 restricted funds. The base limitation may be adjusted annually by  
27 the Legislature to reflect other changes in the prices of services  
1 and products used by school districts and political subdivisions.".

2 2. Renumber the remaining sections and correct internal  
3 references and the repealer and operative date sections so that the  
4 sections added by this amendment become operative on July 1, 2005.

Senator Bourne moved for a call of the house. The motion prevailed with 31  
ayes, 0 nays, and 18 not voting.

Senator Bourne requested a roll call vote on his amendment.

Voting in the affirmative, 16:

Aguilar	Byars	Howard	Pahls
Beutler	Combs	Janssen	Preister
Bourne	Connealy	Kopplin	Price
Brashear	Cornett	Kruse	Synowiecki

Voting in the negative, 23:

Burling	Fischer	Jensen	McDonald	Smith
Chambers	Flood	Kremer	Mines	Stuhr
Cunningham	Foley	Landis	Pederson, D.	Wehrbein
Engel	Heidemann	Langemeier	Raikes	
Erdman	Hudkins	Louden	Redfield	

Present and not voting, 6:

Cudaback	Johnson	Schrock
Friend	Schimek	Stuthman

Excused and not voting, 4:

Baker	Brown	Pedersen, Dw. Thompson
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The Bourne amendment lost with 16 ayes, 23 nays, 6 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for engrossment.

## RESOLUTION

**LEGISLATIVE RESOLUTION 46.** Introduced by Landis, 46; Beutler, 28; Johnson, 37; Price, 26; Schimek, 27.

WHEREAS, Kathleen "Pat" Ackerson Foote was the first woman elected to the Nebraska Unicameral Legislature in 1954 and was re-elected in 1956; and

WHEREAS, Kathleen Foote was born in Lincoln, Nebraska, on September 24, 1926. She graduated from Stanford University in 1948, with a degree in Social Science, and received a master's degree in Educational Psychology from the University of Nebraska in 1964; and

WHEREAS, Kathleen Foote worked for the Nebraska Game and Parks Commission from 1969 to 2001 as an outdoor recreation planner, served as the primary liaison to the Rails to Trails Conservancy in the development of Nebraska's Cowboy Trail, and, in 1995, received the Great Plains Network's Trail Boss Award for her contributions to trail development; and

WHEREAS, Kathleen "Pat" Ackerson Foote was an early advocate for an equal place in society for women sponsoring legislation to require equal pay for equal work. She was described by colleagues as a phenomenal woman,

ahead of her time, always looking into the future.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature honors the memory of Kathleen "Pat" Ackerson Foote and her many achievements for the betterment of Nebraska.

2. That a copy of this resolution be sent to the Foote family.

Laid over.

## STANDING COMMITTEE REPORTS

### Agriculture

**LEGISLATIVE BILL 317.** Placed on General File as amended.

Standing Committee amendment to LB 317:

AM0548

1 1. On page 2, line 19, strike "one hundred" and insert

2 "seventy-five".

**LEGISLATIVE BILL 584.** Placed on General File as amended.

Standing Committee amendment to LB 584:

AM0429

1 1. Strike the original sections and insert the following

2 new sections:

3 "Section 1. Section 28-1008, Revised Statutes

4 Supplement, 2004, is amended to read:

5 28-1008. For purposes of sections 28-1008 to 28-1017:

6 (1) Abandon means to leave any animal for any length of

7 time without making effective provision for its food, water, or

8 other care as is reasonably necessary for the animal's health;

9 (2) Animal means any vertebrate member of the animal

10 kingdom. The term does not include an uncaptured wild creature;

11 (3) Cruelly mistreat means to knowingly and intentionally

12 kill, maim, disfigure, torture, beat, mutilate, burn, scald, or

13 otherwise inflict harm upon any animal;

14 (4) Cruelly neglect means to fail to provide any animal

15 in one's care, whether as owner or custodian, with food, water, or

16 other care as is reasonably necessary for the animal's health;

17 (5) Humane killing means the destruction of an animal by

18 a method which causes the animal a minimum of pain and suffering;

19 (6) Law enforcement officer means any member of the

20 Nebraska State Patrol, any inspector under the Commercial Dog and

21 Cat Operator Inspection Act, any county or deputy sheriff, any

22 member of the police force of any city or village, or any other

23 public official authorized by a city or village to enforce state or

24 local animal control laws, rules, regulations, or ordinances; and

1 (7) Police animal means a horse or dog owned or

2 controlled by the State of Nebraska for the purpose of assisting a

3 Nebraska state trooper in the performance of his or her official

4 enforcement duties.

5 Sec. 2. Section 28-1018, Revised Statutes Supplement,  
6 2004, is amended to read:

7 28-1018. (1) A person, other than an animal control  
8 facility or animal shelter, who sells a puppy or kitten under ~~six~~  
9 eight weeks of age without its mother is guilty of a Class V  
10 misdemeanor.

11 (2) For purposes of this section:

12 (a) Animal control facility means a facility operated by  
13 the state or any political subdivision of the state for the purpose  
14 of impounding or harboring seized, stray, homeless, abandoned, or  
15 unwanted animals; and

16 (b) Animal shelter means a facility used to house or  
17 contain dogs or cats and owned, operated, or maintained by an  
18 incorporated humane society, animal welfare society, society for  
19 the prevention of cruelty to animals, or other nonprofit  
20 organization devoted to the welfare, protection, and humane  
21 treatment of such animals.

22 Sec. 3. Section 54-627, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 54-627. (1) Beginning April 1, 2001, a person shall not  
25 operate as a commercial breeder, a dealer, or a boarding kennel and  
26 beginning October 1, 2003, a person shall not operate as an animal  
27 control facility or an animal shelter unless the person obtains the  
1 appropriate license as a commercial breeder, dealer, boarding  
2 kennel, animal control facility, or animal shelter. Beginning  
3 January 1, 2004, a person shall not operate as a pet shop unless  
4 the person obtains a license as a pet shop. A pet shop shall only  
5 be subject to the Commercial Dog and Cat Operator Inspection Act  
6 and the rules and regulations adopted and promulgated pursuant  
7 thereto in any area or areas of the establishment used for the  
8 keeping and selling of pet animals.

9 (2) An applicant for a license shall submit an  
10 application for the appropriate license to the department, on a  
11 form prescribed by the department, together with a ~~nonreturnable~~  
12 ~~the annual~~ license fee. ~~Such fee shall be one hundred fifty~~  
13 ~~dollars. The license fee shall be paid annually. Such fee is~~  
14 ~~nonreturnable.~~ Additionally, the department may conduct an  
15 inspection of the facilities and sanitation and confinement  
16 practices of the applicant or any other practices that may affect  
17 the humane treatment of ~~dogs and cats~~ pet animals. Upon receipt of  
18 the application and ~~initial~~ annual license fee, the appropriate  
19 license may be issued by the department. Such license shall not be  
20 transferable to another person or location.

21 (2) ~~The fee charged under this section may be raised or~~  
22 ~~lowered by the director after a public hearing is held outlining~~  
23 ~~the reason for any proposed change in the rate. The maximum rate~~  
24 ~~fixed by the director shall not exceed two hundred dollars.~~

25 (3) The annual license fee shall be according to a fee  
26 schedule prepared by the director. The fees shall be based upon

27 the number of animals served by the licensee, and there shall be  
 1 startup discounts for new licensees. The maximum annual license  
 2 fee shall not exceed two hundred fifty dollars.

3 (4) A license to operate as a commercial breeder, a  
 4 license to operate as a dealer, a license to operate as a boarding  
 5 kennel, or a license to operate as a pet shop shall be renewed by  
 6 filing with the department at least thirty days prior to April 1 of  
 7 each year a renewal application and the annual license fee. A  
 8 license to operate as an animal control facility or animal shelter  
 9 shall be renewed by filing with the department at least thirty days  
 10 prior to October 1 of each year a renewal application and the  
 11 annual license fee. Failure to renew a license prior to the  
 12 expiration of the license shall result in an additional fee of  
 13 twenty dollars required upon application to renew such license.  
 14 Sec. 4. Original section 54-627, Reissue Revised  
 15 Statutes of Nebraska, and sections 28-1008 and 28-1018, Revised  
 16 Statutes Supplement, 2004, are repealed."

(Signed) Bob Kremer, Chairperson

### **Natural Resources**

**LEGISLATIVE BILL 191.** Indefinitely postponed.

**LEGISLATIVE BILL 658.** Indefinitely postponed.

(Signed) Ed Schrock, Chairperson

### **Banking, Commerce and Insurance**

**LEGISLATIVE BILL 389.** Placed on General File as amended.

Standing Committee amendment to LB 389:

AM0572

- 1 1. On page 2, strike lines 5 through 13 and insert the
- 2 following new subdivisions:
- 3 "(1) Claim form means an insurer's standard printed or
- 4 electronic transaction form that complies with the standards issued
- 5 by the Secretary of the United States Department of Health and
- 6 Human Services or, if an insurer does not have a standard printed
- 7 or electronic transaction form, any form which complies with such
- 8 standards;
- 9 (2) Clean claim means a claim for payment of health care
- 10 services that is submitted by a Nebraska health care provider to an
- 11 insurer on a claim form with all required fields completed with
- 12 information to adjudicate the claim in accordance with any
- 13 published filing requirements of the insurer;" in line 14 strike
- 14 "(2)" and insert "(3)"; and in line 15 strike "(3)" and insert
- 15 "(4)".
- 16 2. On page 3, line 1, strike "(4)" and insert "(5)"; in
- 17 line 7 strike "(5)" and insert "(6)"; and in line 10 strike "(6)"

18 and insert "(7)".

19 3. On page 4, line 13, after the period insert "The  
20 applicable time period set forth in subsection (1) of this section  
21 shall be tolled as of the date the additional information is  
22 requested until the date all such additional information necessary  
23 to resolve the claim is received.".

24 4. On page 5, line 1, after "concerning" insert  
1 "coverage, eligibility,".

2 5. On page 8, strike lines 13 and 14 and insert "apply  
3 to any individual or group policies that provide coverage for a  
4 specific disease, accident-only coverage, hospital indemnity  
5 coverage, disability income coverage, medicare supplement coverage,  
6 long-term care coverage, or other limited-benefit coverage. The  
7 act".

(Signed) Mick Mines, Chairperson

### **Health and Human Services**

**LEGISLATIVE BILL 272.** Placed on General File.

**LEGISLATIVE BILL 331.** Placed on General File.

**LEGISLATIVE BILL 453.** Placed on General File.

**LEGISLATIVE BILL 534.** Placed on General File.

**LEGISLATIVE BILL 664.** Placed on General File as amended.

Standing Committee amendment to LB 664:

AM0602

1 1. Insert the following new section:

2 "Sec. 3. Since an emergency exists, this act takes  
3 effect when passed and approved according to law.".

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Shawn J. Baumgartner - Board of Emergency Medical Services

Robert Dunn - Board of Emergency Medical Services

Rommie J. Hughes - Board of Emergency Medical Services

Benjamin B. Lans - Board of Emergency Medical Services

Clinton Rasmussen - Board of Emergency Medical Services

Michael L. Westcott - Board of Emergency Medical Services

VOTE: Aye: Senator Jensen, Byars, Cunningham, Erdman, Johnson and Stuthman. Nay: None. Absent: Senator Howard.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Kevin Benesch - Child Abuse Prevention Fund Board  
Peter Tulipana - Child Abuse Prevention Fund Board

VOTE: Aye: Senator Jensen, Byars, Cunningham, Erdman, Johnson and Stuthman. Nay: None. Absent: Senator Howard.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

James E. Gordon - Foster Care Review Board  
John Seyfarth - Foster Care Review Board  
Gerald Schenck - Foster Care Review Board

VOTE: Aye: Senator Jensen, Byars, Cunningham, Erdman, Johnson and Stuthman. Nay: None. Absent: Senator Howard.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

William Brush - Rural Health Advisory Commission  
Pamela H. List - Rural Health Advisory Commission  
Michele Mulligan-Witt - Rural Health Advisory Commission

VOTE: Aye: Senator Jensen, Byars, Cunningham, Erdman, Johnson and Stuthman. Nay: None. Absent: Senator Howard.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Samuel Augustine - State Board of Health  
Edward Discoe - State Board of Health  
Linda Lazure - State Board of Health  
Paul Salansky - State Board of Health  
Gary Westerman - State Board of Health

VOTE: Aye: Senator Jensen, Byars, Cunningham, Erdman, Johnson and Stuthman. Nay: None. Absent: Senator Howard.

(Signed) Jim Jensen, Chairperson

### **GENERAL FILE**

**LEGISLATIVE BILL 94.** Title read. Considered.

Advanced to E & R for review with 27 ayes, 1 nay, 16 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 298.** Title read. Considered.

Senator Landis renewed his pending amendment, AM0250, printed separately and referred to on page 445.

Senator Beutler offered the following amendment to the Landis pending amendment:

FA57

Amend AM0250

Strike the entire sentence beginning with the word "The" on line 22, page 2

Pending.

**EXECUTIVE BOARD REPORT**

Pursuant to Section 81-8,241 and Executive Board action on February 24, 2005, Marshall Lux has been recommended for reappointment to a six-year term as the Public Counsel (Ombudsman) for the State of Nebraska.

(Signed) Pat Engel, Chairperson  
Executive Board

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review****LEGISLATIVE BILL 242.** Placed on Select File as amended.

E & R amendment to LB 242:

AM7023

- 1 1. On page 1, line 6, strike ", 49-1481," and insert
- 2 "to"; and in line 14 after the semicolon insert "to change amount
- 3 and distribution of fees;".
- 4 2. On page 40, line 11, strike "Statement" and insert "A
- 5 statement"; in line 14 strike "they are", show as stricken, and
- 6 insert "it is".

**LEGISLATIVE BILL 563.** Placed on Select File.

(Signed) Michael Flood, Chairperson

**AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 298:

FA58

Amend AM0250

On page 5, line 18 after "that" insert "substantially"

Senator Chambers filed the following amendments to LR 8CA:

FA36

Page 1, line 8 after "hunting" insert "for a way to defend and protect the Constitution of Nebraska from frivolous amendments that would clutter, demean and trivialize it".

FA37

Page 1, line 8 after "hunting" insert "for the wreckage of Amelia Earhart's airplane".

FA38

Page 1, line 8 strike "and" and after "hunting" insert "running, jumping and sweating".

FA39

Page 1, line 8 strike "and" and after "hunting" insert "and sitting on the front porch on a warm summer evening, drinking a glass of cold lemonade, dreamily watching the silvery moon rise to begin its journey across a darkening velvet sky powdered with stardust".

FA40

Page 1, line 9 after "forever" insert "and a day".

FA41

Page 1, line 8 strike "and" and after "hunting" insert "creating, recreating, conversating and procreating".

FA42

Page 1, line 8 strike "and" and after "hunting" insert "an end to religious strife and intolerance".

FA43

Page 1, line 8 after "trapping" insert "moonbeams and daydreams"

FA44

Page 1, line 8 after "hunting" insert "for the Holy Grail".

FA45

Page 1, line 8 after "hunting" insert "for Noah's Ark".

FA46

Page 1, line 8 after "hunting" insert "for the link between Noah's Ark, Joan of Arc and Archimedes".

FA47

Page 1, line 8 after "Fishing" insert "for the secret, if there be a secret, behind the enigmatic smirk of the Mona Lisa".

FA48

Page 1, line 8 after "hunting" insert "for who let the dogs out".

FA49

Page 1, line 8 after "hunting" insert "for weapons of modest destruction".

FA50

Page 1, line 8 after "hunting" insert "for a little peace and quiet".

FA51

Page 1, line 8 after "hunting" insert "for the mathematical formula to square the circle".

FA52

Page 1, line 8 after "Fishing" insert "for the solution to the mystery of the Bermuda Triangle".

FA53

Page 1, line 8 strike "and" and after "hunting" insert "laughing, crying, sneezing, coughing, sleeping, waking, creeping, quaking, sitting, standing, walking, talking, donating, pronating, singing, sighing, buying, baking, itching, scratching, combing, boating, gloating, mining, smithing, stirring, raking, shearing, gazing, lazing, farming, ranching, welding, barbering, butchering, banking, lawyering, lounging, scrounging, dancing, jogging, lunching, munching, arguing, reading, writing and being oneself".

FA54

Page 1, line 8 strike "and" and after "hunting" insert "and supporting Big Red Football".

FA55

Page 1, line 8 after "hunting" insert "for the Seven Cities of Gold".

FA56

Page 1, line 8 after "Fishing" insert "for compliments"; after "trapping" insert "up a storm"; and after "hunting" insert "for the sweetest apple in the orchard".

FA59

Page 1, line 8 strike "Fishing, trapping, and hunting are" and insert "Hunting for and trapping liberal Nebraska Republicans"; in lines 9 and 10 strike "the people" and insert "conservatives of all stripes"; in line 9 strike "forever" and after "preserved" insert "until the twelfth of never"

FA60

Page 1, line 8 strike ", trapping," and after "hunting" insert "for world peace".

FA61

Page 1, line 8 strike "Fishing, trapping, and hunting" and insert "Hunting for and seeking to trap Bigfoot".

FA62

Page 1, line 8 strike "Fishing, trapping, and hunting are" and insert "Hunting for the Fountain of youth is"; in lines 9 and 10 strike "the" and insert "wistful"

FA63

Page 1, line 8 after "trapping" insert "the morning mist".

FA64

Page 1, line 8 after "hunting" insert "Osama bin Laden".

FA65

Page 1, line 8 strike "Fishing, trapping and hunting are" and insert "Hunting lunches is"; in lines 9 and 10 strike "the people" and insert "politicians".

FA66

Page 1, line 8 strike ", trapping," and after "hunting" insert "a cure for cancer".

FA67

Page 1, line 8 after "trapping" insert "the Man in the Moon"; after "hunting" insert "for liberal Martians".

FA68

Page 1, line 8 after "Fishing" insert "for anglers"; after "trapping" insert "trappers"; after "hunting" insert "hunters".

FA69

Amend FA36

In line 10 after "people" put a period and strike remaining language through the period in line 11.

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Mines asked unanimous consent to have his name added as cointroducer to LB 114. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Natasha Larson from Omaha; Bill Yates from Hartington; and Hartington Community Leaders.

### **ADJOURNMENT**

At 11:58 a.m., on a motion by Senator Preister, the Legislature adjourned until 10:00 a.m., Monday, February 28, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



# **THIRTY-FIFTH DAY - FEBRUARY 28, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **THIRTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, February 28, 2005

#### **PRAYER**

The prayer was offered by Pastor Aaron Pingel, Christ Lutheran Church, Falls City.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Bourne and Kremer who were excused; and Senators Engel, Hudkins, D. Pederson, and Raikes who were excused until they arrive.

#### **CORRECTIONS FOR THE JOURNAL**

Page 176, after line 20, insert "DiMartino, Thomas - Boiler Safety Code Advisory Board - Business and Labor".

The Journal for the fifth day was approved as corrected.

The Journal for the thirty-fourth day was approved.

#### **SELECT COMMITTEE REPORTS Enrollment and Review**

**LEGISLATIVE BILL 570.** Placed on Select File as amended.

E & R amendment to LB 570:

AM7027

- 1 1. In the Standing Committee amendment, AM0229:
- 2 a. On page 3, line 11, strike "shall", show as stricken,
- 3 and insert "does"; and in line 27 strike "include", show as
- 4 stricken, and insert "includes";
- 5 b. On page 4, line 2, strike "do" and insert "does";
- 6 c. On page 13, line 11, strike the comma; and in line 13
- 7 strike the last comma;

8 d. On page 23, line 13, strike "this code" and insert  
 9 "the Uniform Commercial Code"; and  
 10 e. On page 32, line 1, after "dealing" insert an  
 11 underscored comma.  
 12 2. On page 1, strike beginning with "2-202" in line 4  
 13 through the semicolon in line 9 and insert "2-104, 2-202, 2-310,  
 14 2-323, 2-401, 2-503, 2-505, 2-506, 2-509, 2-605, 2-705, 2A-103,  
 15 2A-501, 2A-514, 2A-518, 2A-519, 2A-526, 2A-527, 2A-528, 3-103,  
 16 4-104, 4-210, 4A-105, 4A-106, 4A-204, 5-103, 8-103, 9-102, 9-203,  
 17 9-207, 9-208, 9-301, 9-310, 9-312, 9-313, 9-314, 9-317, 9-338, and  
 18 9-601, Uniform Commercial Code; to adopt and eliminate provisions  
 19 relating to general provisions and documents of title;" and in  
 20 line 13 strike "and" and after the last comma insert "7-101 to  
 21 7-105, 7-201 to 7-210, 7-301 to 7-309, 7-401 to 7-404, 7-501 to  
 22 7-509, 7-601 to 7-603, and 10-104,".

**LEGISLATIVE BILL 66.** Placed on Select File as amended.  
 E & R amendment to LB 66:  
 AM7021

- 1 1. In the Standing Committee amendments, AM0296:
- 2 a. On page 1, line 9, strike "on" and insert "in";
- 3 b. On page 6, line 9, after "specifications" insert an  
 4 underscored comma;
- 5 c. On page 9, line 12, after "and" insert an underscored  
 6 comma; and after "possible" insert an underscored comma; and
- 7 d. On page 11, line 3, strike "or"; and in line 10 after  
 8 "under" insert "sections 1 to 10 of".

**LEGISLATIVE BILL 66A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

**SENATOR JANSSEN PRESIDING**

### **MOTION - Ombudsman Appointment**

Senator Cudaback moved the reappointment, found on page 628, of Marshall Lux as Public Counsel (Ombudsman), and asks that the Legislature vote its approval as required by Section 81-8,241. A two-thirds vote is required.

The motion prevailed with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

**SENATOR CUDABACK PRESIDING**

### **GENERAL FILE**

**LEGISLATIVE BILL 298.** Senator Landis renewed his pending

amendment, AM0250, printed separately and referred to on page 445 and considered on page 628.

Senator Beutler withdrew his pending amendments, FA57 and FA58, found on page 628.

Senator Beutler offered the following amendment to the Landis pending amendment:

AM0620

(Amendments to AM0250)

- 1 1. On page 1, line 8, strike "state" and insert
- 2 "Nebraska".
- 3 2. On page 2, line 22, strike "The" and insert ",
- 4 except that the"; and in line 24 after "holder" insert "unless it
- 5 is the owner of the real property".
- 6 3. On page 5, line 10, strike "9 and 10" and insert "10
- 7 and 11"; in line 11 strike "and"; and in line 13 after "act" insert
- 8 "; and
- 9 (7) Rights to enforce granted to any person".
- 10 4. On page 7, line 17, strike "and" and insert an
- 11 underscored comma; in line 19 after "covenant" insert "under
- 12 section 10 or 11 of this act and any subordination agreement"; and
- 13 after line 25 insert:
- 14 "(c) A copy of a document recorded under subsection (a)
- 15 of this section shall also be provided to the Department of
- 16 Environmental Quality if the department has not signed the
- 17 covenant".
- 18 5. On page 10, line 18, strike "the".
- 19 6. On page 11, after line 2 insert:
- 20 "(d) The Uniform Environmental Covenants Act does not
- 21 limit the right of any person to recover damages under any other
- 22 provision of law".

The Beutler amendment was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

The Landis amendment, AM0250, as amended, was adopted with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

Senator Beutler offered the following amendment:

FA70

On Page 10, line 18, reinstate the stricken "the"

The Beutler amendment was adopted with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 335.** Title read. Considered.

Advanced to E & R for review with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

**LEGISLATIVE RESOLUTION 8CA.** Read. Considered.

Senator Chambers renewed his pending amendment, FA32, found on page 599.

Senator Chambers moved for a call of the house. The motion prevailed with 17 ayes, 5 nays, and 27 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 39:

Brashear	Cunningham	Janssen	McDonald	Schrock
Brown	Engel	Jensen	Mines	Smith
Burling	Erdman	Johnson	Pahls	Stuhr
Byars	Fischer	Kopplin	Pedersen, Dw.	Stuthman
Combs	Foley	Kruse	Pederson, D.	Synowiecki
Connealy	Friend	Landis	Price	Thompson
Cornett	Heidemann	Langemeier	Redfield	Wehrbein
Cudaback	Howard	Louden	Schimek	

Voting in the negative, 0.

Present and not voting, 4:

Aguilar	Baker	Chambers	Preister
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Excused and not voting, 6:

Beutler	Flood	Kremer
Bourne	Hudkins	Raikes

The Chambers amendment was adopted with 39 ayes, 0 nays, 4 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:  
Reconsider the vote on FA32

Pending.

**BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 70A.** Introduced by Smith, 48.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 70, Ninety-ninth Legislature, First Session, 2005.

**LEGISLATIVE BILL 249A.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 249, Ninety-ninth Legislature, First Session, 2005.

**LEGISLATIVE BILL 689A.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 689, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

**AMENDMENT - Print in Journal**

Senator Landis filed the following amendment to LB 66:  
AM0606

(Amendments to AM0296)

- 1 1. On page 12, line 18, after the period insert "The
- 2 county assessor may appeal a final decision of the State Historic
- 3 Preservation Officer to the district court within thirty days after
- 4 mailing of the final decision by the State Historic Preservation
- 5 Officer.".

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Fischer asked unanimous consent to have her name added as cointroducer to LB 664. No objections. So ordered.

**VISITOR**

The Doctor of the Day was Dr. Kyle Haeefe from Lincoln.

**ADJOURNMENT**

At 11:59 a.m., on a motion by Senator Byars, the Legislature adjourned until 9:00 a.m., Tuesday, March 1, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**THIRTY-SIXTH DAY - MARCH 1, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**THIRTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, March 1, 2005

**PRAYER**

The prayer was offered by Senator Byars.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Hudkins and Loudon who were excused; and Senators Beutler, Brown, Kremer, Landis, D. Pederson, Raikes, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-fifth day was approved.

**SELECT COMMITTEE REPORT  
Enrollment and Review**

**Correctly Engrossed**

The following bill was correctly engrossed: LB 51.

(Signed) Michael Flood, Chairperson

**STANDING COMMITTEE REPORT  
Revenue**

**LEGISLATIVE BILL 311.** Indefinitely postponed.

(Signed) David Landis, Chairperson

**MOTIONS - Approve Appointments**

Senator Erdman moved the adoption of the Agriculture Committee report for the confirmation of the following appointment(s) found on page 607:

Nebraska State Fair Board  
Tamas R. Allan

Voting in the affirmative, 31:

Aguilar	Engel	Howard	McDonald	Stuhr
Baker	Erdman	Janssen	Mines	Stuthman
Burling	Fischer	Jensen	Pedersen, Dw.	Wehrbein
Chambers	Flood	Johnson	Redfield	
Connealy	Foley	Kopplin	Schimek	
Cornett	Friend	Kruse	Schrock	
Cudaback	Heidemann	Langemeier	Smith	

Voting in the negative, 0.

Present and not voting, 7:

Bourne	Byars	Cunningham	Synowiecki
Brashear	Combs	Preister	

Excused and not voting, 11:

Beutler	Kremer	Pahls	Raikes
Brown	Landis	Pederson, D.	Thompson
Hudkins	Louden	Price	

The appointment was confirmed with 31 ayes, 0 nays, 7 present and not voting, and 11 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 626:

Board of Emergency Medical Services

Shawn J. Baumgartner

Robert Dunn

Rommie J. Hughes

Benjamin B. Lans

Clinton Rasmussen

Michael L. Westcott

Voting in the affirmative, 32:

Aguilar	Cudaback	Friend	Langemeier	Stuhr
Baker	Cunningham	Heidemann	McDonald	Stuthman
Burling	Engel	Howard	Pedersen, Dw.	Synowiecki
Chambers	Erdman	Janssen	Redfield	Wehrbein
Combs	Fischer	Jensen	Schimek	
Connealy	Flood	Johnson	Schrock	
Cornett	Foley	Kruse	Smith	

Voting in the negative, 0.

Present and not voting, 7:

Bourne	Byars	Mines	Raikes
Brashear	Kopplin	Preister	

Excused and not voting, 10:

Beutler	Hudkins	Landis	Pahls	Price
Brown	Kremer	Louden	Pederson, D.	Thompson

The appointments were confirmed with 32 ayes, 0 nays, 7 present and not voting, and 10 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 626:

Child Abuse Prevention Fund Board

Kevin Benesch

Peter Tulipana

Voting in the affirmative, 30:

Aguilar	Cornett	Flood	Jensen	Schrock
Baker	Cudaback	Foley	Johnson	Smith
Burling	Cunningham	Friend	Langemeier	Stuhr
Byars	Engel	Heidemann	McDonald	Stuthman
Combs	Erdman	Howard	Redfield	Synowiecki
Connealy	Fischer	Janssen	Schimek	Wehrbein

Voting in the negative, 0.

Present and not voting, 8:

Bourne	Chambers	Kruse	Preister
Brashear	Kopplin	Mines	Raikes

Excused and not voting, 11:

Beutler	Kremer	Pahls	Price
Brown	Landis	Pedersen, Dw.	Thompson
Hudkins	Louden	Pederson, D.	

The appointments were confirmed with 30 ayes, 0 nays, 8 present and not voting, and 11 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services

Committee report for the confirmation of the following appointment(s) found on page 627:

Foster Care Review Board

James E. Gordon

Gerald Schenck

John Seyfarth

Voting in the affirmative, 29:

Aguilar	Cudaback	Foley	Kruse	Schimek
Baker	Cunningham	Friend	Landis	Schrock
Byars	Engel	Heidemann	McDonald	Stuthman
Chambers	Erdman	Howard	Pederson, D.	Synowiecki
Connealy	Fischer	Janssen	Raikes	Wehrbein
Cornett	Flood	Johnson	Redfield	

Voting in the negative, 0.

Present and not voting, 11:

Bourne	Combs	Langemeier	Smith
Brashear	Jensen	Mines	Stuhr
Burling	Kopplin	Preister	

Excused and not voting, 9:

Beutler	Hudkins	Louden	Pedersen, Dw. Thompson
Brown	Kremer	Pahls	Price

The appointments were confirmed with 29 ayes, 0 nays, 11 present and not voting, and 9 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 627:

Rural Health Advisory Commission

William Brush

Pamela H. List

Michele Mulligan-Witt

Voting in the affirmative, 30:

Aguilar	Cornett	Foley	Johnson	Schimek
Baker	Cunningham	Friend	Kruse	Schrock
Byars	Engel	Heidemann	Landis	Stuhr
Chambers	Erdman	Howard	McDonald	Stuthman
Combs	Fischer	Janssen	Raikes	Synowiecki
Connealy	Flood	Jensen	Redfield	Wehrbein

Voting in the negative, 0.

Present and not voting, 10:

Bourne	Burling	Kopplin	Mines	Preister
Brashear	Cudaback	Langemeier	Pederson, D.	Smith

Excused and not voting, 9:

Beutler	Hudkins	Louden	Pedersen, Dw.	Thompson
Brown	Kremer	Pahls	Price	

The appointments were confirmed with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

### **SPEAKER BRASHEAR PRESIDING**

#### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 43, 44, and 45 were adopted.

#### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 43, 44, and 45.

### **SENATOR CUDABACK PRESIDING**

#### **MOTION - Approve Appointments**

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 627:

State Board of Health  
 Samuel Augustine  
 Edward Discoe  
 Linda Lazure  
 Paul Salansky  
 Gary Westerman

Voting in the affirmative, 27:

Aguilar	Engel	Jensen	Raikes	Stuthman
Baker	Erdman	Johnson	Redfield	Synowiecki
Byars	Flood	Kruse	Schimek	Wehrbein
Chambers	Foley	McDonald	Schrock	
Combs	Friend	Mines	Smith	
Cudaback	Heidemann	Pederson, D.	Stuhr	

Voting in the negative, 0.

Present and not voting, 13:

Bourne	Conneally	Fischer	Kopplin	Preister
Brashear	Cornett	Howard	Landis	
Burling	Cunningham	Janssen	Langemeier	

Excused and not voting, 9:

Beutler	Hudkins	Louden	Pedersen, Dw. Thompson
Brown	Kremer	Pahls	Price

The appointments were confirmed with 27 ayes, 0 nays, 13 present and not voting, and 9 excused and not voting.

## RESOLUTION

**LEGISLATIVE RESOLUTION 47.** Introduced by Combs, 32.

WHEREAS, DeEtta Feeken was born near York, Nebraska, on July 22, 1911, and has lived in Crete, Nebraska, since 1934; and

WHEREAS, Mrs. Feeken took her first piano lesson in 1919, and has played the organ at Plymouth Congregational Church in Crete for more than five decades; and

WHEREAS, Mrs. Feeken served on the board of directors and the foundation board of the Crete Area Medical Center, where she now reads to seniors at the Long Term Care Unit, and served twenty years as treasurer of the Friends of the Library; and

WHEREAS, the Crete Sertoma Clubs have named DeEtta Feeken as the 2005 Service to Mankind Award recipient.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commends DeEtta Feeken on her service to her community and congratulates her on receiving the Sertoma Service to Mankind Award.

2. That a copy of this resolution be sent to Mrs. Feeken.

Laid over.

## ANNOUNCEMENT

The Chair announced today is Senator Fischer's birthday.

## GENERAL FILE

**LEGISLATIVE RESOLUTION 8CA.** Senator Chambers renewed his pending motion, found on page 636, to reconsider the vote on FA32.

Senator Chambers asked unanimous consent to withdraw his motion to reconsider. No objections. So ordered.

Senator Brashear asked unanimous consent to bracket LR 8CA until March 14, 2005. No objections. So ordered.

**LEGISLATIVE BILL 198.** Title read. Considered.

Senator Raikes moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 10.** Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 236.** Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 238.** Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

**SENATOR JENSEN PRESIDING**

**LEGISLATIVE BILL 262.** Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 355.** Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 211.** Title read. Considered.

The Standing Committee amendment, AM0071, found on page 360, was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 211A.** Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

### SELECT COMMITTEE REPORTS

#### Enrollment and Review

**LEGISLATIVE BILL 98.** Placed on Select File as amended.  
E & R amendment to LB 98:

AM7028

1 1. In the Standing Committee amendments, AM0057, on page  
2 28, line 16, strike "of" and insert "for".  
3 2. On page 1, strike beginning with "section" in line 1  
4 through line 4 and insert "sections 23-3557, 23-3575, 32-331,  
5 32-558, 32-559, 32-807, 32-808, 32-936, 32-938 to 32-952, 32-958,  
6 32-1027, 32-1030, 32-1031, 32-1032, 32-1502, 32-1539, 32-1544,  
7 42-1207, and 53-122, Reissue Revised Statutes of Nebraska, and  
8 section 10-703.01, Revised Statutes Supplement, 2004; to provide  
9 for early voting; to delete references to absentee voting; to  
10 change provisions relating to special elections by mail; to  
11 harmonize provisions; and to repeal the original sections.".

**LEGISLATIVE BILL 7.** Placed on Select File as amended.  
E & R amendment to LB 7:

AM7022

1 1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:  
3 "Section 1. Section 60-6,157, Reissue Revised Statutes  
4 of Nebraska, is amended to read:  
5 60-6,157. (1) Except as otherwise provided in  
6 subsection (3) of this section, no person shall stand in a roadway  
7 for the purpose of soliciting a ride, employment, contributions, or  
8 business from the occupant of any vehicle.  
9 (2) No person shall stand on or in proximity to a highway  
10 for the purposes of soliciting the watching or guarding of any  
11 vehicle while parked or about to be parked on a highway.  
12 (3)(a) Any municipality may, by ordinance, allow  
13 pedestrians over the age of eighteen to enter one or more roadways,  
14 except roadways that are part of the state highway system, at  
15 specified times and locations and approach vehicles when stopped by  
16 traffic control devices or traffic control signals for the purpose  
17 of soliciting contributions which are to be devoted to charitable  
18 or community betterment purposes.  
19 (b) Any ordinance enacted pursuant to this subsection  
20 shall be a general ordinance which shall not exclude or give

- 21 preference to any individual or the members of any organization,  
22 association, or group. Any ordinance whose terms or provisions do  
23 not strictly comply with this subsection is void.  
24 Sec. 2. Original section 60-6,157, Reissue Revised  
1 Statutes of Nebraska, is repealed.  
2 Sec. 3. Since an emergency exists, this act takes effect  
3 when passed and approved according to law."

**LEGISLATIVE BILL 205.** Placed on Select File.

**LEGISLATIVE BILL 244.** Placed on Select File.

**LEGISLATIVE BILL 246.** Placed on Select File.

**LEGISLATIVE BILL 71.** Placed on Select File as amended.

E & R amendment to LB 71:

AM7024

- 1 1. In the Standing Committee amendments, AM0343, on page
- 2 6, line 27, strike "Partnership" and insert "Partnerships".

**LEGISLATIVE BILL 71A.** Placed on Select File.

**LEGISLATIVE BILL 243.** Placed on Select File as amended.

E & R amendment to LB 243:

AM7025

- 1 1. On page 1, line 6, strike "and"; and in line 7 after
- 2 "sections" insert "; and to declare an emergency".
- 3 2. On page 2, line 27; and page 3, line 1, strike
- 4 "percent" and insert "percentage".
- 5 3. On page 3, line 1, strike the semicolon and insert an
- 6 underscored comma.

**LEGISLATIVE BILL 243A.** Placed on Select File as amended.

E & R amendment to LB 243A:

AM7026

- 1 1. On page 2, lines 2 and 3, strike "Bureau of Examining
- 2 Boards" and insert "Professional and Occupational Credentialing".

**LEGISLATIVE BILL 76.** Placed on Select File.

**LEGISLATIVE BILL 94.** Placed on Select File.

(Signed) Michael Flood, Chairperson

## STANDING COMMITTEE REPORTS

### Judiciary

**LEGISLATIVE BILL 111.** Placed on General File.

**LEGISLATIVE BILL 320.** Placed on General File.

**LEGISLATIVE BILL 396.** Placed on General File.

**LEGISLATIVE BILL 654.** Placed on General File.

**LEGISLATIVE BILL 756.** Placed on General File.

**LEGISLATIVE BILL 130.** Placed on General File as amended.  
Standing Committee amendment to LB 130:  
AM0360

- 1 1. On page 4, line 2, after the period insert "All
- 2 records compiled in the course of conciliation activities shall be
- 3 exempt from public release. The commission may release any fully
- 4 executed conciliation agreement."; in line 3 after "(2)" insert
- 5 "(a)"; in line 5 strike "at any time," show as stricken, and
- 6 insert an underscored comma and after the comma insert "following
- 7 the completion of an investigation."; and after line 7 insert the
- 8 following new subdivision:
- 9 "(b) The commission's release of information pursuant to
- 10 subdivision (2)(a) of this section is subject to the federal
- 11 Privacy Act of 1974, Public Law 93-579, as such act existed on
- 12 January 1, 2005, and any other state or federal laws limiting the
- 13 release of confidential information obtained in the course of an
- 14 investigation under the Nebraska Fair Housing Act.".

**LEGISLATIVE BILL 410.** Placed on General File as amended.  
Standing Committee amendment to LB 410:  
AM0350

- 1 1. On page 2, line 7, after "in" insert "a form
- 2 substantially similar to"; and strike "form"; and in line 13 after
- 3 "the" insert "interest of . . . . . in the".
- 4 2. On page 3, strike beginning with "lies" in line 8
- 5 through "affected" in line 14 and insert "is located".

**LEGISLATIVE BILL 446.** Placed on General File as amended.  
(Standing Committee amendment, AM0520, is printed separately and  
available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 529.** Placed on General File as amended.  
Standing Committee amendment to LB 529:  
AM0215

- 1 1. Insert the following new section:
- 2 "Sec. 33. Section 25-1031.02, Reissue Revised Statutes
- 3 of Nebraska, is amended to read:
- 4 25-1031.02. (1) The party seeking garnishment shall
- 5 advance the costs of transcript and docketing the matter in the
- 6 district court.
- 7 (2) The district court shall be entitled to the
- 8 following fee in civil matters: For issuance of a writ of
- 9 execution, restitution, garnishment, attachment, and examination in
- 10 aid of execution, a fee of ~~five~~ ten dollars each."
- 11 2. On page 4, line 6, after the period insert "Until the
- 12 position of clerk of the district court is a state employee
- 13 position under this section, such appointment shall be subject to
- 14 the approval of the appropriate county board.".

- 15 3. On page 5, strike lines 2 and 3 and insert  
 16 "(b) In counties having a population of two hundred  
 17 thousand or more, child support referees and their staffs are not  
 18 included in the transfer under this section. In counties having a  
 19 population of four hundred thousand or more,"; and in line 4 strike  
 20 the comma.
- 21 4. On page 11, line 9, strike "have the right to"; and  
 22 in line 11 strike "may".
- 23 5. On page 12, line 25, strike "subsection (1)" and  
 24 insert "subdivision (1)(b)(ii)".
- 1 6. On page 13, line 1, after the period insert "A  
 2 transferred employee who (a) was employed by the county and  
 3 participated in the Retirement System for Nebraska Counties under  
 4 the County Employees Retirement Act prior to January 1, 2003, and  
 5 (b) elected not to participate in the cash balance benefit option,  
 6 may participate in the defined contribution benefit option of the  
 7 State Employees Retirement System of the State of Nebraska.".
- 8 7. On page 51, line 26, after "salaries" insert "and  
 9 benefits".
- 10 8. On page 52, line 1, strike beginning with "37"  
 11 through "57" and insert "33, 38, 41 to 46, and 58"; and in line 5  
 12 after "sections" insert "25-1031.02,".
- 13 9. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 754.** Placed on General File as amended.  
 Standing Committee amendment to LB 754:  
 AM0274

- 1 1. Insert the following new section:  
 2 "Section 1. Section 24-719, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 24-719. (1) Meetings of the Commission on Judicial  
 5 Qualifications shall be held at least annually at Lincoln,  
 6 Nebraska, or at such other place or places within the State of  
 7 Nebraska and at such time as the commission may determine. A  
 8 majority of the members of the commission shall constitute a  
 9 quorum. ~~No ; PROVIDED, that no~~ action of the commission shall be  
 10 valid unless concurred in by a majority of its members. The date  
 11 of the annual meeting of the commission shall be fixed by  
 12 resolution of the commission and special meetings of the commission  
 13 may be called at any time by the chairperson or vice-chairperson of  
 14 the commission or by the Supreme Court or at the written request of  
 15 any two members of the commission.
- 16 (2) To the extent permitted by the Constitution of  
 17 Nebraska, the commission shall prepare and make available to the  
 18 public an annual report outlining the activities of the commission  
 19 in the previous year. The report shall include, but not be limited  
 20 to:
- 21 (a) The total number of meetings held by the commission;  
 22 (b) The total number of complaints filed with the

- 23 commission;  
24 (c) The total number of complaints dismissed by the  
25 commission;  
26 (d) The total number of public reprimands issued by the  
27 commission;  
28 (e) The total number of formal complaints filed by the  
29 commission; and  
30 (f) The costs incurred by the commission which shall  
31 include:  
32 (i) Expenses paid to commission members pursuant to  
33 section 24-718;  
34 (ii) Expenses paid to special masters appointed by the  
35 commission; and  
36 (iii) Expenses paid to special investigators hired by the  
37 commission."  
38 2. On page 5, line 2, after "Original" insert "section  
39 24-719, Reissue Revised Statutes of Nebraska, and"; and in line 3  
40 strike "is" and insert "are".  
41 3. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 755.** Placed on General File as amended.

Standing Committee amendment to LB 755:

AM0393

- 1 1. Strike original sections 1 and 2 and insert the  
2 following section:  
3 "Section 1. Notwithstanding any other provision of law:  
4 (1) No DNA sample shall be obtained from any person for  
5 any law enforcement purpose whatsoever without probable cause;  
6 (2) In the absence of probable cause, if any person is  
7 requested by a law enforcement person or agency to consent to the  
8 taking of a DNA sample in connection with a law enforcement  
9 investigation of a particular crime, such consent shall be deemed  
10 voluntary only if:  
11 (a) The sample is knowingly and voluntarily given in  
12 connection with the investigation of a particular crime;  
13 (b) The person was informed by a written advisory  
14 prepared by the law enforcement agency that the request may be  
15 refused and that such refusal does not provide probable cause or  
16 reasonable suspicion to believe that the person has committed a  
17 crime, and the person signs the advisory; and  
18 (c) No threat, pressure, duress, or coercion of any kind  
19 was employed, whether (i) direct or indirect, (ii) express or  
20 implied, or (iii) physical or psychological.  
21 (3) Any DNA sample obtained in violation of this section  
22 is not admissible in any proceeding for any purpose whatsoever;  
23 (4) A person shall be notified in writing by the law  
24 enforcement agency immediately upon the determination that he or  
25 she has not been implicated by his or her DNA sample in the  
26 commission of the particular crime in connection with which the DNA

3 sample was obtained;  
4 (5) Such sample and all identifying information  
5 pertaining to the person shall be delivered to the person within  
6 ten days after the notification required by subdivision (4) of this  
7 section with a written explanation that the materials are being  
8 turned over in compliance with this section;  
9 (6) The law enforcement agency shall purge all records  
10 and identifiable information pertaining to the person specified in  
11 subdivisions (4) and (5) of this section;  
12 (7) Any aggrieved person may file an action in district  
13 court against any person, including any law enforcement agency, to  
14 enjoin such person or law enforcement agency from violating this  
15 section; and  
16 (8) Any person aggrieved by a knowing violation of this  
17 section may bring an action in district court for damages. A  
18 person found by the court to be aggrieved by a violation of this  
19 section shall receive damages of not less than one thousand dollars  
20 and may recover reasonable costs and attorney's fees.  
21 For purposes of this section, DNA means deoxyribonucleic  
22 acid."  
23 2. Renumber the remaining section accordingly.

**LEGISLATIVE BILL 757.** Placed on General File as amended.  
Standing Committee amendment to LB 757:  
AM0399

1 1. Strike original section 1 and insert the following  
2 new sections:  
3 "Section 1. Section 84-106, Revised Statutes Supplement,  
4 2004, is amended to read:  
5 84-106. The Governor is authorized to call to his or her  
6 assistance and to appoint ~~any number of~~ persons necessary to assist  
7 the Superintendent of Law Enforcement and Public Safety to enforce  
8 ~~the provisions of~~ the criminal laws. The superintendent and his or  
9 her assistants, who shall be designated ~~and named~~ deputy state  
10 sheriffs, shall qualify by ~~each~~ taking and filing oath in writing.  
11 Such ~~individuals~~ persons shall be bonded or insured as required by  
12 section 11-201. The premiums may be paid for out of appropriations  
13 made ~~available~~ to the state offices, departments, commissions, or  
14 other agencies to which such deputy state sheriffs are assigned.  
15 No deputy state sheriffs shall be assigned to the Department of  
16 Correctional Services. The superintendent and his or her  
17 assistants shall have the same powers in each of the ~~several~~  
18 counties of the state as the sheriffs have in their respective  
19 counties, insofar as the enforcement of the criminal laws is  
20 concerned. An action against the superintendent or any of his or  
21 her assistants for an act done by them or either of them ~~in by~~  
22 virtue of; or under color of their offices respectively, or for any  
23 neglect of their official duties, shall be brought ~~either~~ in  
24 Lancaster County, Nebraska, or in the county where the cause of

- 1 action or some part thereof arose.
- 2 Sec. 3. Since an emergency exists, this act takes effect
- 3 when passed and approved according to law."

(Signed) Patrick J. Bourne, Chairperson

### **ANNOUNCEMENT**

Senator Engel designates LB 38 as his priority bill.

### **STANDING COMMITTEE REPORT** **Health and Human Services**

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Martin L. Fattig - Rural Health Advisory Commission

VOTE: Aye: Senator Jensen, Byars, Cunningham, Erdman, Johnson and Stuthman. Nay: None. Absent: Senator Howard.

(Signed) Jim Jensen, Chairperson

### **GENERAL FILE**

**LEGISLATIVE BILL 287.** Title read. Considered.

The Standing Committee amendment, AM0070, found on page 360, was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Senator McDonald moved for a call of the house. The motion prevailed with 16 ayes, 1 nay, and 32 not voting.

Advanced to E & R for review with 25 ayes, 4 nays, 17 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 284.** Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 139.** Title read. Considered.

Senator Schrock offered the following amendment:  
AM0647

1 1. On page 4, line 18, strike "and" and show as  
 2 stricken; and in line 23 after "customers" insert "and  
 3 (8) Public power industry means public power districts,  
 4 public power and irrigation districts, municipalities, registered  
 5 groups of municipalities, electric cooperatives, electric  
 6 membership associations, joint entities formed under the Interlocal  
 7 Cooperation Act, joint public agencies formed under the Joint  
 8 Public Agency Act, agencies formed under the Municipal Cooperative  
 9 Financing Act, and any other governmental entities providing  
 10 electric service".

The Schrock amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 441.** Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 32.** Title read. Considered.

Pending.

### **STANDING COMMITTEE REPORTS** **Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 321.** Placed on General File.

**LEGISLATIVE BILL 474.** Placed on General File.

**LEGISLATIVE BILL 475.** Placed on General File.

**LEGISLATIVE BILL 566.** Placed on General File.

**LEGISLATIVE BILL 160.** Placed on General File as amended.

Standing Committee amendment to LB 160:

AM0642

1 1. Strike the original section and insert the following  
 2 new sections:  
 3 "Section 1. (1) The County Government Task Force is  
 4 created to examine Nebraska's county government structure, both  
 5 revenue and spending, and overall government structure with an  
 6 emphasis on whether regional services would be more efficient.  
 7 (2) The task force shall consist of four members of the  
 8 Legislature appointed by the Executive Board of the Legislative  
 9 Council and the following members appointed by the Governor: (a)  
 10 One county official from each of the three congressional districts,  
 11 with at least one county-wide elected official and at least one  
 12 county commissioner or supervisor and (b) one member of the public

13 from each of the three congressional districts. The appointments  
14 shall be made by June 15, 2005. In addition, the chairperson of  
15 the Government, Military and Veterans Affairs Committee of the  
16 Legislature and the executive director of the Nebraska Association  
17 of County Officials shall serve as ex officio members of the task  
18 force. The Governor shall appoint the chairperson of the task  
19 force from among the appointed members. Members of the task force  
20 other than the members of the Legislature shall be reimbursed for  
21 their actual and necessary expenses incurred while serving as  
22 members of the task force as provided in sections 81-1174 to  
23 81-1177.

24 (3) The task force shall examine all of the services  
1 provided at the county level and their purpose, role, function, and  
2 necessity.

3 (4) The task force may include other lay, professional,  
4 organizational, and governmental representatives in analyzing and  
5 developing a report summarizing any recommendations for (a) the  
6 restructure of government and (b) amendments to the Constitution of  
7 Nebraska with respect to counties.

8 (5) The Legislative Fiscal Analyst and appropriate  
9 committee staff shall serve as the staff for the task force.

10 (6) The task force shall present a report to the  
11 Legislature no later than December 15, 2005. The report may  
12 include proposed legislation for the Legislature to consider during  
13 the 2006 legislative session.

14 Sec. 2. Since an emergency exists, this act takes effect  
15 when passed and approved according to law."

**LEGISLATIVE BILL 273.** Placed on General File as amended.

Standing Committee amendment to LB 273:

AM0639

- 1 1. On page 3, line 16, strike "one million" and insert
- 2 "two hundred thousand".

**LEGISLATIVE BILL 373.** Placed on General File as amended.

Standing Committee amendment to LB 373:

AM0573

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Whenever an agency proposes to adopt, amend,
- 4 or repeal a rule or regulation, (1) at least thirty days before the
- 5 public hearing when notice of a proposed rule or regulation is sent
- 6 out or (2) at the same time the agency applies to the Governor for
- 7 a waiver of the notice of public hearing under section 84-907, the
- 8 agency shall provide to the Governor for review (a) a description
- 9 of the proposed rule or regulation and the entity or entities it
- 10 will impact, (b) an explanation of the necessity of the proposed
- 11 rule or regulation, including the identification of the authorizing
- 12 statute or legislative bill, (c) a statement that the proposed rule

13 or regulation is consistent with legislative intent, (d) a  
14 statement indicating whether the proposed rule or regulation is the  
15 result of a state mandate on a local governmental subdivision and  
16 if the mandate is funded, (e) a statement indicating if the  
17 proposed rule or regulation is the result of a federal mandate on  
18 state government or on a local governmental subdivision and if the  
19 mandate is funded, (f) a description, including a quantification,  
20 of the fiscal impact on state agencies, political subdivisions, and  
21 regulated persons, (g) a statement that the agency will solicit  
22 public comment on the proposed rule or regulation before the public  
23 hearing, and (h) a statement indicating whether or not the agency  
24 has utilized the negotiated rulemaking process as provided for in  
1 the Negotiated Rulemaking Act with respect to the proposed rule or  
2 regulation.

3 Sec. 2. Section 84-906.01, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 84-906.01. (1) An agency shall maintain an official  
6 rulemaking or regulationmaking record for each rule or regulation  
7 it adopts or proposes by publication of a notice. The record and  
8 materials incorporated by reference shall be available for public  
9 inspection and shall be maintained for at least four years after  
10 the effective date of the rule or regulation.

11 (2) The record shall contain:

12 (a) Copies of all publications with respect to the rule  
13 or regulation;

14 (b) Copies of any portions of the public rulemaking or  
15 regulationmaking docket containing entries relating to the rule or  
16 regulation;

17 (c) All written petitions, requests, submissions, and  
18 comments received by the agency and all other written materials  
19 prepared by or for the agency in connection with the proposal or  
20 adoption of the rule or regulation;

21 (d) Any official transcript of oral presentations made in  
22 a proceeding about the proposed rule or regulation or, if not  
23 transcribed, any tape recording or stenographic record of those  
24 presentations, and any memorandum prepared by the hearing officer  
25 summarizing the contents of those presentations;

26 (e) A copy of the rule or regulation and the concise  
27 explanatory statement filed with the Secretary of State;

1 (f) All petitions for adoption of, exceptions to,  
2 amendments of, or repeal or suspension of, the rule or regulation;

3 (g) A copy of any comments on the rule or regulation  
4 filed by a legislative committee; and

5 (h) A description, ~~but not necessarily~~ including a  
6 quantification, of the fiscal impact on state agencies, political  
7 subdivisions, and regulated persons.

8 (3) Upon judicial review, the record required by this  
9 section shall constitute the official agency rulemaking or  
10 regulationmaking record with respect to a rule or regulation.

11 Except as provided in section 84-907.04 or as otherwise required by  
12 law, the agency rulemaking or regulationmaking record need not  
13 constitute the exclusive basis for agency action on that rule or  
14 regulation or for judicial review thereof.

15 Sec. 3. Section 84-907, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 84-907. No rule or regulation shall be adopted, amended,  
18 or repealed by any agency except after public hearing on the  
19 question of adopting, amending, or repealing such rule or  
20 regulation. Notice of such hearing shall be given at least thirty  
21 days prior thereto to the Secretary of State and by publication in  
22 a newspaper having general circulation in the state. All such  
23 hearings shall be open to the public. In addition to the  
24 requirements of section 84-906.01, draft copies or working copies  
25 of all rules and regulations to be adopted, amended, or repealed by  
26 any agency shall be available to the public in the office of the  
27 Secretary of State at the time of giving notice. The notice shall  
1 include: (1) A declaration of availability of such draft or work  
2 copies for public examination; (2) a short explanation of the  
3 purpose of the proposed rule or regulation or the reason for the  
4 amendment or repeal of the rule or regulation; and (3) a  
5 description, including ~~but not necessarily~~ a quantification, of the  
6 fiscal impact on state agencies, political subdivisions, and  
7 persons being regulated or an explanation of where the description  
8 of the fiscal impact may be inspected and obtained. No person may  
9 challenge the validity of any rule or regulation, the adoption,  
10 amendment, or repeal of any rule or regulation, or any  
11 determination of the applicability of any rule or regulation on the  
12 basis of the explanation provided pursuant to subdivision (2) of  
13 this section. Any agency adopting, amending, or repealing a rule  
14 or regulation may make written application to the Governor who may,  
15 upon receipt of a written showing of good cause, waive the notice  
16 of public hearing.

17 For purposes of this section, good cause shall include,  
18 but not be limited to, a showing by the agency that:

19 (a) Compliance with the public notice requirements of  
20 this section would result in extreme hardship on the citizens of  
21 this state;

22 (b) An emergency exists which must be remedied  
23 immediately; or

24 (c) A timely filing or publication of notice of a public  
25 hearing was prevented by some unforeseeable event beyond the  
26 immediate control of the agency and that the parties affected have  
27 not and will not suffer material injury as a result of the agency's  
1 action.

2 Whenever public notice is waived, the agency shall, so  
3 far as practicable, give notice to the public of the proposed rule  
4 or regulation change and of the rule or regulation as finally  
5 adopted or changed.

6 Sec. 4. Section 84-907.06, Reissue Revised Statutes of  
7 Nebraska, is amended to read:  
8 84-907.06. Whenever an agency proposes to adopt, amend,  
9 or repeal a rule or regulation, (1) at least thirty days before the  
10 public hearing when notice of a proposed rule or regulation is sent  
11 out or (2) at the same time the agency applies to the Governor for  
12 a waiver of the notice of public hearing, the agency shall send to  
13 the Executive Board of the Legislative Council (a) a copy of the  
14 hearing notice required by section 84-907, (b) if applicable, a  
15 draft copy of the rule or regulation, and (c) ~~if not included in~~  
16 ~~the hearing notice, a description but not necessarily a~~  
17 ~~quantification of the fiscal impact on state agencies, political~~  
18 ~~subdivisions, and persons being regulated~~ the information provided  
19 to the Governor pursuant to section 1 of this act.

20 Sec. 5. Section 84-907.07, Reissue Revised Statutes of  
21 Nebraska, is amended to read:  
22 84-907.07. The chairperson of the Executive Board of the  
23 Legislative Council or committee staff member of the board shall  
24 refer materials received pursuant to section 84-907.06 for review  
25 (1) to the chairperson of the standing committee of the Legislature  
26 which has subject matter jurisdiction over the issue involved in  
27 the rule or regulation or which has traditionally handled the issue  
1 and (2) if practicable, to the member of the Legislature who was  
2 the primary sponsor of the legislative bill that granted the agency  
3 the rulemaking authority if the member is still serving or, if the  
4 legislative bill was amended to include the rulemaking authority,  
5 to the primary sponsor of the amendment granting rulemaking  
6 authority if the member is still serving. The committee or  
7 committee chairperson of such standing committee of the Legislature  
8 having subject matter jurisdiction may submit a written or oral  
9 statement at the public hearing on the rule or regulation or, if  
10 the Governor authorizes a waiver of the notice of public hearing,  
11 may submit a written statement to the agency and to the Secretary  
12 of State to be entered in the records relating to the rule or  
13 regulation.

14 Sec. 6. (1) After an agency submits a copy of each  
15 amendment or rule or regulation pursuant to section 84-907.06, any  
16 member of the Legislature who feels aggrieved by the amendment,  
17 rule, or regulation or believes that the amendment, rule, or  
18 regulation is in excess of the statutory authority or jurisdiction  
19 of the agency, is unconstitutional, or is inconsistent with the  
20 legislative intent of the authorizing statute may file a complaint  
21 with the Chairperson of the Executive Board of the Legislative  
22 Council. The complaint shall explain in detail the person's  
23 contentions.  
24 (2) The chairperson of the executive board or a committee  
25 staff member of the executive board shall refer the complaint to  
26 the chairperson of the standing committee of the Legislature which  
27 has subject matter jurisdiction over the issue involved in the rule

1 or regulation or which has traditionally handled the issue and, if  
2 practicable, to the member of the Legislature who was the primary  
3 sponsor of the legislative bill that granted the agency the  
4 rulemaking authority if the member is still serving or, if the  
5 legislative bill was amended to include the rulemaking authority,  
6 to the primary sponsor of the amendment granting rulemaking  
7 authority if the member is still serving.  
8 (3) The standing committee and primary sponsor of the  
9 legislative bill or amendment granting rulemaking authority may  
10 consider the complaint and, if such committee or primary sponsor  
11 concludes that the complaint has merit, then such committee or  
12 primary sponsor may request a written response from the agency  
13 which shall include, but not be limited to (a) a description of the  
14 proposed rule or regulation, (b) a description of the legislative  
15 intent of the statute granting the agency rulemaking authority and  
16 a statement explaining how the proposed rule or regulation is  
17 consistent with legislative intent, and (c) an explanation of the  
18 extent to which and how any public comment was taken into  
19 consideration by the agency with respect to the amendment or rule  
20 or regulation. The agency shall respond within sixty days of a  
21 request, and such response shall be a public record.  
22 Sec. 7. Section 84-920, Reissue Revised Statutes of  
23 Nebraska, is amended to read:  
24 84-920. Sections 84-901 to 84-920 and sections 1 and 6  
25 of this act shall be known and may be cited as the Administrative  
26 Procedure Act.  
27 Sec. 8. Original sections 84-906.01, 84-907, 84-907.06,  
1 84-907.07, and 84-920, Reissue Revised Statutes of Nebraska, are  
2 repealed."

**LEGISLATIVE BILL 473.** Placed on General File as amended.  
Standing Committee amendment to LB 473:  
AM0638

1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 32-610, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 32-610. (1) No person shall be allowed to file a  
6 candidate filing form as a partisan candidate or to have his or her  
7 name placed upon a primary election ballot of a political party  
8 unless:  
9 (1) ~~he~~ (a) He or she is a registered voter of the  
10 political party if required pursuant to section 32-702; and  
11 (2) ~~at the last election~~ (b) At one of the two  
12 immediately preceding statewide general elections:  
13 (i) A candidate nominated by the political party polled  
14 at least five percent of the entire vote in the state; county,  
15 political subdivision, or district in which the candidate seeks the  
16 nomination for office in a statewide race or a combination of

17 candidates nominated by the political party for a combination of  
 18 districts that encompass the entire state polled at least five  
 19 percent of the vote in each of their respective districts; or  
 20 (ii) A candidate nominated by the political party polled  
 21 at least five percent of the entire vote in the congressional  
 22 district in which the candidate seeks the nomination for office.  
 23 (2) A candidate filing form filed in violation of this  
 24 section shall be void.

1 Sec. 2. Section 32-718, Reissue Revised Statutes of  
 2 Nebraska, is amended to read:  
 3 32-718. New political parties may be formed for a  
 4 congressional district, ~~; a county, or a city.~~ Any person  
 5 desiring to form a new political party for a congressional  
 6 district, ~~a county, or a city~~ shall follow the procedures set out  
 7 in section 32-716, except that:  
 8 ~~(1) The~~ the requirement for signatures to be obtained  
 9 from registered voters in each of the three congressional districts  
 10 shall not apply. ~~to this section;~~  
 11 ~~(2) Petitions for new county or city political parties~~  
 12 ~~shall be filed with the election commissioner or county clerk, and~~  
 13 ~~the election commissioner or county clerk shall perform the duties~~  
 14 ~~imposed upon the Secretary of State by section 32-717; and~~  
 15 ~~(3) Petitions for formation of a new city political party~~  
 16 ~~shall be filed no later than February 1 before the city primary.~~  
 17 Sec. 3. Original sections 32-610 and 32-718, Reissue  
 18 Revised Statutes of Nebraska, are repealed."

**LEGISLATIVE BILL 682.** Placed on General File as amended.  
 Standing Committee amendment to LB 682:  
 AM0574

1 1. On page 2, line 27, after "office" insert "at such  
 2 special election"; and in line 28 strike "or" and insert ", those  
 3 who comply with section 32-616, and those".

**LEGISLATIVE BILL 683.** Placed on General File as amended.  
 Standing Committee amendment to LB 683:  
 AM0641

1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 "Section 1. Section 75-104, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 75-104. ~~Until January 9, 2003, the salary of each~~  
 6 ~~commissioner shall be forty two thousand dollars. Commencing~~  
 7 ~~January 9, 2003~~ Until January 4, 2007, the annual salary of each  
 8 commissioner shall be fifty thousand dollars. Commencing January  
 9 4, 2007, the annual salary of each commissioner shall be sixty  
 10 thousand dollars. Each commissioner shall be entitled to receive  
 11 from the state his or her mileage expenses incurred while traveling  
 12 in the line of duty to and from his or her residence to the office

13 of the Public Service Commission in Lincoln pursuant to the  
14 following conditions:

15 (1) The Public Service Commission has adopted and  
16 promulgated rules and regulations establishing guidelines for  
17 allowable reimbursement of such mileage expenses, except that such  
18 mileage rate shall not exceed the mileage rate established by the  
19 Department of Administrative Services pursuant to section 81-1176;

20 (2) The request for such reimbursement falls within such  
21 guidelines; and

22 (3) The total amounts authorized for such reimbursement  
23 of mileage expenses in any fiscal year does not cause the total  
24 expenses to exceed the total funds appropriated to the program  
1 established for commissioners' expenses. In addition thereto, the  
2 commissioners, executive director, clerks, and other employees of  
3 the commission shall be entitled to receive from the state their  
4 actual necessary traveling expenses, including the cost of  
5 transportation while traveling on the business of the commission,  
6 to be paid in the same manner as other requests for payment or  
7 reimbursement from the state. In computing the cost of  
8 transportation for the commissioners, executive director, clerks,  
9 and other employees, no mileage or other traveling expense shall be  
10 requested or allowed unless sections 81-1174 to 81-1177 are  
11 strictly complied with.

12 Sec. 2. Section 84-101.01, Revised Statutes Supplement,  
13 2004, is amended to read:

14 ~~84-101.01. Until January 9, 2003, the Governor shall~~  
15 ~~receive an annual salary of sixty-five thousand dollars. Commencing~~  
16 ~~January 9, 2003~~ Until January 4, 2007, the annual salary of the  
17 Governor shall be eighty-five thousand dollars. Commencing January  
18 4, 2007, the annual salary of the Governor shall be one hundred  
19 thousand dollars. Such salary shall be payable in equal monthly  
20 installments.

21 Sec. 3. Section 84-201.01, Revised Statutes Supplement,  
22 2004, is amended to read:

23 ~~84-201.01. Until January 9, 2003, the Attorney General~~  
24 ~~shall receive an annual salary of sixty-four thousand five hundred~~  
25 ~~dollars. Commencing January 9, 2003~~ Until January 4, 2007, the  
26 annual salary of the Attorney General shall be seventy-five  
27 thousand dollars. Commencing January 4, 2007, the annual salary of  
1 the Attorney General shall be ninety thousand dollars. The salary  
2 of the Attorney General shall be payable in equal monthly  
3 installments.

4 Sec. 4. Section 84-721, Revised Statutes Supplement,  
5 2004, is amended to read:

6 ~~84-721. Until January 9, 2003, there shall be paid as~~  
7 ~~salaries to certain constitutional officers as follows: Secretary~~  
8 ~~of State, the sum of fifty-two thousand dollars per year; Auditor~~  
9 ~~of Public Accounts, the sum of forty-nine thousand five hundred~~  
10 ~~dollars per year; State Treasurer, the sum of forty-nine thousand~~

11 ~~five hundred dollars per year; and Lieutenant Governor, the sum of~~  
12 ~~forty-seven thousand dollars per year. Commencing January 9, 2003~~  
13 ~~Until January 4, 2007, there shall be paid as salaries to certain~~  
14 ~~constitutional officers as follows: Secretary of State, the sum of~~  
15 ~~sixty-five thousand dollars per year; Auditor of Public Accounts,~~  
16 ~~the sum of sixty thousand dollars per year; State Treasurer, the~~  
17 ~~sum of sixty thousand dollars per year; and Lieutenant Governor,~~  
18 ~~the sum of sixty thousand dollars per year. Commencing January 4,~~  
19 ~~2007, there shall be paid as salaries to certain constitutional~~  
20 ~~officers as follows: Secretary of State, the sum of seventy-five~~  
21 ~~thousand dollars per year; Auditor of Public Accounts, the sum of~~  
22 ~~seventy-five thousand dollars per year; State Treasurer, the sum of~~  
23 ~~seventy-five thousand dollars per year; and Lieutenant Governor,~~  
24 ~~the sum of sixty-five thousand dollars per year. Such salaries~~  
25 ~~shall be payable in equal monthly installments.~~  
26 Sec. 5. Original section 75-104, Reissue Revised  
27 Statutes of Nebraska, and sections 84-101.01, 84-201.01, and  
1 84-721, Revised Statutes Supplement, 2004, are repealed.".

**LEGISLATIVE BILL 512.** Indefinitely postponed.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Judy Schweikart - Nebraska Accountability and Disclosure Commission

VOTE: Aye: Senators Brown, Burling, Fischer, Langemeier, Mines, Pahls, Schimek, Wehrbein. Nay: None. Absent: None.

(Signed) DiAnna R. Schimek, Chairperson

**ANNOUNCEMENTS**

Senator Langemeier designates LB 675 as his priority bill.

The Transportation and Telecommunications Committee designates LB 645 as its priority bill.

**MOTION - Print in Journal**

Senator Chambers filed the following motion to LB 287:  
Indefinitely postpone.

**AMENDMENT - Print in Journal**

Senator D. Pederson filed the following amendment to LB 211:

FA71

On page 2, lines 11 and 12, strike the words "which owns, operates" and "maintains." After the word person insert "owning, operating," and "maintaining."

### **UNANIMOUS CONSENT - Add Cointroducers**

Senators Burling, Combs, Connealy, McDonald, Redfield, and Schrock asked unanimous consent to have their names added as cointroducers to LB 70. No objections. So ordered.

Senator Burling asked unanimous consent to have his name added as cointroducer to LB 731. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 24 eighth-grade students and teachers from Seventh-Day Adventist School, Lincoln; 57 kindergarten through sixth-grade students and teacher from Stull School, Plattsmouth; Bud Synhorst from Omaha; Senator Heidemann's wife, Robin, and 10 students from Elk Creek School; George and Lonnie Fuller from O'Neill; and Sharon Janzen and Tom Dorsch from Beatrice and Ken Lallack and Tami Throener from Fairbury.

### **ADJOURNMENT**

At 12:02 p.m., on a motion by Senator Synowiecki, the Legislature adjourned until 9:00 a.m., Wednesday, March 2, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

# **THIRTY-SEVENTH DAY - MARCH 2, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **THIRTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, March 2, 2005

#### **PRAYER**

The prayer was offered by Pastor Brenda Pfeifly, Beautiful Savior Lutheran Church, Palmyra.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brashear, Hudkins, Kremer, and Landis who were excused; and Senators Baker, Foley, Janssen, Kruse, Langemeier, Dw. Pedersen, and D. Pederson who were excused until they arrive.

#### **CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-sixth day was approved.

#### **STANDING COMMITTEE REPORTS** **Revenue**

**LEGISLATIVE BILL 753.** Placed on General File as amended.

Standing Committee amendment to LB 753:

AM0643

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 77-2701.16, Revised Statutes
- 4 Supplement, 2004, is amended to read:
- 5 77-2701.16. (1) Gross receipts shall mean the total
- 6 amount of the sale or lease or rental price, as the case may be, of
- 7 the retail sales of retailers valued in money whether received in
- 8 money or otherwise, without any deduction on account of any of the
- 9 following:
- 10 (a) The cost of property sold. In accordance with rules
- 11 and regulations adopted and promulgated by the Tax Commissioner, a
- 12 deduction may be taken if the retailer has purchased property for

13 some purpose other than resale, has reimbursed his or her vendor  
14 for tax which the vendor is required to pay to the state or has  
15 paid the use tax with respect to the property, and has resold the  
16 property prior to making any use of the property other than  
17 retention, demonstration, or display while holding it for sale in  
18 the regular course of business. If such a deduction is taken by  
19 the retailer, no refund or credit will be allowed to his or her  
20 vendor with respect to the sale of the property;

21 (b) The cost of the materials used, labor or service  
22 costs, interest paid, losses, or any other expense;

23 (c) The cost of transportation of the property;

24 (d) The amount of any excise or property tax levied  
1 against the property except as otherwise provided in the Nebraska  
2 Revenue Act of 1967; or

3 (e) The amount charged for warranties, guarantees, or  
4 maintenance agreements.

5 (2) Gross receipts of every person engaged as a public  
6 utility specified in this subsection or as a community antenna  
7 television service operator or any person involved in connecting  
8 and installing services defined in subdivision (2)(a), (b), or (d)  
9 of this section shall mean:

10 (a) In the furnishing of telephone communication service,  
11 other than mobile telecommunications service as described in  
12 section 77-2706.02, the gross income received from furnishing local  
13 exchange telephone service and intrastate message toll telephone  
14 service. In the furnishing of mobile telecommunications service as  
15 described in section 77-2706.02, the gross income received from  
16 furnishing mobile telecommunications service that originates and  
17 terminates in the same state to a customer with a place of primary  
18 use in Nebraska. Gross receipts shall not mean (i) the gross  
19 income, including division of revenue, settlements, or carrier  
20 access charges received on or after January 1, 1984, from the sale  
21 of a telephone communication service to a communication service  
22 provider for purposes of furnishing telephone communication service  
23 or (ii) the gross income attributable to services rendered using a  
24 prepaid telephone calling arrangement. For purposes of this  
25 subdivision, a prepaid telephone calling arrangement shall mean the  
26 right to exclusively purchase telecommunications service that is  
27 paid for in advance that enables the origination of calls using an  
1 access number or authorization code, whether manually or  
2 electronically dialed;

3 (b) In the furnishing of telegraph service, the gross  
4 income received from the furnishing of intrastate telegraph  
5 services;

6 (c) In the furnishing of gas, electricity, sewer, and  
7 water service except water used for irrigation of agricultural  
8 lands and manufacturing purposes, the gross income received from  
9 the furnishing of such services upon billings or statements  
10 rendered to consumers for such utility services; and

11 (d) In the furnishing of community antenna television  
12 service, the gross income received from the furnishing of such  
13 community antenna television service as regulated under sections  
14 18-2201 to 18-2205 or 23-383 to 23-388.

15 Gross receipts shall also mean gross income received from  
16 the provision, installation, construction, servicing, or removal of  
17 property used in conjunction with the furnishing, installing, or  
18 connecting of any public utility services specified in subdivision  
19 (2)(a) or (b) of this section or community antenna television  
20 service specified in subdivision (2)(d) of this section. Gross  
21 receipts shall not mean gross income received from telephone  
22 directory advertising.

23 (3) Gross receipts of every person engaged in selling,  
24 leasing, or otherwise providing intellectual or entertainment  
25 property shall mean:

26 (a) In the furnishing of computer software, the gross  
27 income received, including the charges for coding, punching, or  
1 otherwise producing computer software and the charges for the  
2 tapes, disks, punched cards, or other properties furnished by the  
3 seller; and

4 (b) In the furnishing of videotapes, movie film,  
5 satellite programming, satellite programming service, and satellite  
6 television signal descrambling or decoding devices, the gross  
7 income received from the license, franchise, or other method  
8 establishing the charge except the gross income received from  
9 videotape and film rentals, satellite programming, and satellite  
10 programming service when the sales tax or the admission tax is  
11 charged under the Nebraska Revenue Act of 1967 and except as  
12 provided in section 77-2704.39.

13 (4) Gross receipts for providing a service shall mean:

14 (a) The gross income received for building cleaning and  
15 maintenance, pest control, and security;

16 (b) The gross income received for motor vehicle washing,  
17 waxing, towing, and painting;

18 (c) The gross income received for computer software  
19 training;

20 (d) The gross income received for installing and applying  
21 tangible personal property if the sale of the property is subject  
22 to tax;

23 (e) The gross income received for labor by a contractor  
24 except as provided in section 77-2704.55;

25 (f) The gross income received for services of  
26 recreational vehicle parks;

27 (g) The gross income received for labor for repair or  
1 maintenance services performed with regard to tangible personal  
2 property the sale of which would be subject to sales and use taxes,  
3 excluding motor vehicles, except as otherwise provided in  
4 subdivision (2)(f) of section 77-2702.13 or section 77-2704.26;

5 (h) The gross income received for animal specialty

- 6 services except (i) veterinary services and (ii) specialty services  
7 performed on livestock as defined in section 54-183; and  
8 (i) The gross income received for detective services.  
9 (5) Gross receipts shall not include any of the  
10 following:  
11 (a) Cash discounts allowed and taken on sales;  
12 (b) The amount of any rebate granted by a motor vehicle  
13 or motorboat manufacturer or dealer at the time of sale of the  
14 motor vehicle or motorboat, which rebate functions as a discount  
15 from the sales price of the motor vehicle or motorboat;  
16 (c) Sales price of property or services returned or  
17 rejected by customers when the full sales price is refunded either  
18 in cash or credit;  
19 (d) The amount charged for finance charges, carrying  
20 charges, service charges, or interest from credit extended on sales  
21 of property or services under contracts providing for deferred  
22 payments of the purchase price if such charges are not used as a  
23 means of avoiding imposition of the tax upon the actual sales price  
24 of the property or services;  
25 (e) The value of property taken by a seller in trade as  
26 all or a part of the consideration for a sale of property of any  
27 kind or nature;  
1 (f) The value of a motor vehicle or motorboat taken by  
2 any person in trade as all or a part of the consideration for a  
3 sale of another motor vehicle or motorboat;  
4 (g) Receipts from conditional sale contracts, installment  
5 sale contracts, rentals, and leases executed in writing prior to  
6 June 1, 1967, and with delivery of the property prior to June 1,  
7 1967, if such conditional sale contracts, installment sale  
8 contracts, rentals, or leases are for a fixed price and are not  
9 subject to negotiation or alteration; or  
10 (h) Except as provided in subsection (2) of this section,  
11 until October 1, 2002, the amount charged for labor or services  
12 rendered in installing or applying the property sold if such amount  
13 is separately stated and such separate statement is not used as a  
14 means of avoiding imposition of the tax upon the actual sales price  
15 of the property.  
16 (6) Subsections (1) through (6) of this section terminate  
17 on January 1, 2004.  
18 (7) Gross receipts means the total amount of the sale or  
19 lease or rental price, as the case may be, of the retail sales of  
20 retailers.  
21 (8) Gross receipts of every person engaged as a public  
22 utility specified in this subsection or as a community antenna  
23 television service operator or any person involved in connecting  
24 and installing services defined in subdivision (8)(a), (b), or (d)  
25 of this section means:  
26 (a)(i) In the furnishing of telephone communication  
27 service, other than mobile telecommunications service as described

- 1 in section 77-2703.04, the gross income received from furnishing  
2 local exchange telephone service and intrastate message toll  
3 telephone service; and
- 4 (ii) In the furnishing of mobile telecommunications  
5 service as described in section 77-2703.04, the gross income  
6 received from furnishing mobile telecommunications service that  
7 originates and terminates in the same state to a customer with a  
8 place of primary use in Nebraska;
- 9 (b) In the furnishing of telegraph service, the gross  
10 income received from the furnishing of intrastate telegraph  
11 services;
- 12 (c) In the furnishing of gas, electricity, sewer, and  
13 water service, the gross income received from the furnishing of  
14 such services upon billings or statements rendered to consumers for  
15 such utility services;
- 16 (d) In the furnishing of community antenna television  
17 service, the gross income received from the furnishing of such  
18 community antenna television service as regulated under sections  
19 18-2201 to 18-2205 or 23-383 to 23-388; and
- 20 (e) The gross income received from the provision,  
21 installation, construction, servicing, or removal of property used  
22 in conjunction with the furnishing, installing, or connecting of  
23 any public utility services specified in subdivision (8)(a) or (b)  
24 of this section or community antenna television service specified  
25 in subdivision (8)(d) of this section, which shall be considered  
26 construction services beginning October 1, 2003. This subdivision  
27 does not apply to the gross income received by a contractor  
1 electing to be treated as a consumer of building materials under  
2 subdivision (2) or (3) of section 77-2701.10 for any such services  
3 performed prior to October 1, 2003.
- 4 (9) Gross receipts of every person engaged in selling,  
5 leasing, or otherwise providing intellectual or entertainment  
6 property means:
- 7 (a) In the furnishing of computer software, the gross  
8 income received, including the charges for coding, punching, or  
9 otherwise producing any computer software and the charges for the  
10 tapes, disks, punched cards, or other properties furnished by the  
11 seller; and
- 12 (b) In the furnishing of videotapes, movie film,  
13 satellite programming, satellite programming service, and satellite  
14 television signal descrambling or decoding devices, the gross  
15 income received from the license, franchise, or other method  
16 establishing the charge.
- 17 (10) Gross receipts for providing a service means:
- 18 (a) The gross income received for building cleaning and  
19 maintenance, pest control, and security;
- 20 (b) The gross income received for motor vehicle washing,  
21 waxing, towing, and painting;
- 22 (c) The gross income received for computer software

23 training;

24 (d) The gross income received for installing and applying  
25 tangible personal property if the sale of the property is subject  
26 to tax;

27 (e) The gross receipts received for labor by a contractor  
1 electing to be treated as a consumer of building materials under  
2 subdivision (2) or (3) of section 77-2701.10 except as provided in  
3 section 77-2704.55. For purposes of this subdivision, the gross  
4 receipts received for labor shall be sixty percent of the sales  
5 price for building materials and construction services less an  
6 allowance for sales tax paid on building materials. The allowance  
7 for sales tax paid on building materials shall equal the sales tax  
8 rate in effect at the time payment is received at the location of  
9 the project times forty percent of the sales price for building  
10 materials and construction services;

11 (f) The gross income received for services of  
12 recreational vehicle parks;

13 (g) The gross income received for labor for repair or  
14 maintenance services performed with regard to tangible personal  
15 property the sale of which would be subject to sales and use taxes,  
16 excluding motor vehicles, except as otherwise provided in section  
17 77-2704.26 or 77-2704.50;

18 (h) The gross income received for animal specialty  
19 services except (i) veterinary services and (ii) specialty services  
20 performed on livestock as defined in section 54-183; and

21 (i) The gross income received for detective services.

22 (11) Gross receipts includes the sale of admissions which  
23 means the right or privilege to have access to or to use a place or  
24 location. When an admission to an activity is combined with the  
25 solicitation of a contribution, the portion or the amount charged  
26 representing the fair market price of the admission shall be  
27 considered a retail sale subject to the tax imposed by section  
1 77-2703. The organization conducting the activity shall determine  
2 the amount properly attributable to the purchase of the privilege,  
3 benefit, or other consideration in advance, and such amount shall  
4 be clearly indicated on any ticket, receipt, or other evidence  
5 issued in connection with the payment.

6 (12) Gross receipts includes the sale of live plants  
7 incorporated into real estate except when such incorporation is  
8 incidental to the transfer of an improvement upon real estate or  
9 the real estate.

10 (13) Gross receipts includes the sale of any building  
11 materials annexed to real estate and any construction services by a  
12 person electing to be taxed as a retailer pursuant to subdivision  
13 (1) of section 77-2701.10.

14 (14) Gross receipts includes the sale of prepaid  
15 telephone calling arrangements and the recharge of prepaid  
16 telephone calling arrangements. If the sale or recharge of a  
17 prepaid telephone calling arrangement does not take place at the

18 vendor's place of business, the sale or recharge shall be  
19 conclusively determined to take place at the customer's shipping  
20 address or, if there is no item shipped, at the customer's billing  
21 address. For purposes of this subsection, a prepaid telephone  
22 calling arrangement means the right to exclusively purchase  
23 telecommunications services that are paid for in advance that  
24 enables the origination of calls using an access number or  
25 authorization code, whether manually or electronically dialed.

26 (15) Gross receipts does not include:

27 (a) The amount of any rebate granted by a motor vehicle  
1 or motorboat manufacturer or dealer at the time of sale of the  
2 motor vehicle or motorboat, which rebate functions as a discount  
3 from the sales price of the motor vehicle or motorboat; or

4 (b) The price of property or services returned or  
5 rejected by customers when the full sales price is refunded either  
6 in cash or credit.

7 (16) Subsections (7) through (15) of this section become  
8 operative on January 1, 2004.

9 (17) The Tax Commissioner shall hold a hearing on rules  
10 and regulations to carry out the changes made to this section by  
11 Laws 2003, LB 759. It is the intent of the Legislature that the  
12 Tax Commissioner adopt and promulgate rules and regulations to  
13 carry out such changes.

14 Sec. 2. Original section 77-2701.16, Revised Statutes  
15 Supplement, 2004, is repealed.

16 Sec. 3. Since an emergency exists, this act takes effect  
17 when passed and approved according to law."

(Signed) David Landis, Chairperson

### Nebraska Retirement Systems

**LEGISLATIVE BILL 144.** Placed on General File as amended.  
Standing Committee amendment to LB 144:  
AM0462

1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 79-907, Revised Statutes Supplement,  
4 2004, is amended to read:  
5 79-907. (1)(a) On or before October 1, 2001, and at  
6 least every two years thereafter, the retirement board shall send  
7 to each contributing member of the retirement system by first-class  
8 mail, a statement of creditable service, reported salary, and other  
9 such information as is determined by the director of the Nebraska  
10 Public Employees Retirement Systems to be necessary in calculating  
11 the member's retirement benefit. ~~The member shall have ninety days~~  
12 ~~after its receipt to dispute such statement and request that the~~  
13 ~~board modify or correct such statement of information. If the~~  
14 ~~member does not dispute the statement on or before the ninety days~~

~~15 have elapsed, the statement shall be binding upon the member and~~  
~~16 the member shall be forever barred from challenging such statement~~  
~~17 thereafter.~~

18 (b) If the member requests a modification or correction  
19 of his or her statement of information, the member shall provide  
20 documentation to the board supporting such modification or  
21 correction and provide clear and convincing evidence that the  
22 statement is in error. The board shall, within sixty days after  
23 receipt of the documentation supporting the modification or  
24 correction, determine whether the member has proven by clear and  
1 convincing evidence that the statement shall be modified or  
2 corrected. If the board determines that the member has provided  
3 clear and convincing evidence, the board shall modify or correct  
4 the statement. If the board determines that the member has not  
5 provided clear and convincing evidence, the board shall deny the  
6 modification or correction. In either case, the board shall notify  
7 the member. The member may appeal the decision of the board  
8 pursuant to section 79-950.

9 (c) The board has an ongoing fiduciary duty to modify or  
10 correct a member's statement if the board discovers an error in the  
11 information it has on record. A modification or correction shall  
12 be made within sixty days after the error is brought to the  
13 attention of the board.

14 (2) The board shall adopt and promulgate rules and  
15 regulations and prescribe the necessary forms to carry out this  
16 section.

17 Sec. 2. Original section 79-907, Revised Statutes  
18 Supplement, 2004, is repealed."

**LEGISLATIVE BILL 366.** Placed on General File as amended.  
Standing Committee amendment to LB 366:  
AM0492

- 1 1. Strike original sections 1 and 2.
- 2 2. On page 7, line 7, strike "sections 23-2306, 84-1307,
- 3 and" and insert "section"; and in line 8 strike "are" and insert
- 4 "is".
- 5 3. Renumber the remaining section accordingly.

**LEGISLATIVE BILL 493.** Indefinitely postponed.

(Signed) Elaine Stuhr, Chairperson

**NOTICE OF COMMITTEE HEARINGS**  
**Appropriations**  
Room 1524

Monday, March 14, 2005 1:30 p.m.  
 AGENCY 48 - Coordinating Commission for Postsecondary Education  
 AGENCY 50 - State College System  
 AGENCY 83 - Community College System

(Signed) Don Pederson, Chairperson

**Judiciary**  
 Room 1113

LB 64	Wednesday, March 9, 2005	1:30 p.m.
LB 429	Wednesday, March 9, 2005	1:30 p.m.
LB 507	Wednesday, March 9, 2005	1:30 p.m.
LB 585	Wednesday, March 9, 2005	1:30 p.m.
LB 611	Wednesday, March 9, 2005	1:30 p.m.
LB 643	Wednesday, March 9, 2005	1:30 p.m.
LB 713	Wednesday, March 9, 2005	1:30 p.m.
LB 437	Thursday, March 10, 2005	1:30 p.m.
LB 580	Thursday, March 10, 2005	1:30 p.m.
LB 750	Thursday, March 10, 2005	1:30 p.m.
LB 752	Thursday, March 10, 2005	1:30 p.m.
LB 123	Friday, March 11, 2005	1:30 p.m.
LB 316	Friday, March 11, 2005	1:30 p.m.
LB 385	Friday, March 11, 2005	1:30 p.m.
LB 393	Friday, March 11, 2005	1:30 p.m.
LB 567	Friday, March 11, 2005	1:30 p.m.
LB 670	Friday, March 11, 2005	1:30 p.m.
LB 143	Wednesday, March 16, 2005	1:30 p.m.
LB 292	Wednesday, March 16, 2005	1:30 p.m.
LB 377	Wednesday, March 16, 2005	1:30 p.m.
LB 506	Wednesday, March 16, 2005	1:30 p.m.
LB 760	Wednesday, March 16, 2005	1:30 p.m.
LR 26CA	Wednesday, March 16, 2005	1:30 p.m.
LB 403	Thursday, March 17, 2005	1:30 p.m.
LB 454	Thursday, March 17, 2005	1:30 p.m.
LB 740	Thursday, March 17, 2005	1:30 p.m.

(Signed) Patrick J. Bourne, Chairperson

**ANNOUNCEMENT**

The Agriculture Committee designates LB 346 as its priority bill.

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 503A.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 503, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

**GENERAL FILE**

**LEGISLATIVE BILL 264.** Title read. Considered.

The Standing Committee amendment, AM0499, found on page 592, was adopted with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

**STANDING COMMITTEE REPORTS**  
**Education**

**LEGISLATIVE BILL 380.** Placed on General File.

(Signed) Ron Raikes, Chairperson

**Business and Labor**

**LEGISLATIVE BILL 394.** Placed on General File.

**LEGISLATIVE BILL 237.** Placed on General File as amended.  
Standing Committee amendment to LB 237:  
AM0658

1 1. Strike sections 1 and 2 and insert:  
2 "Section 1. Section 48-125, Reissue Revised Statutes of  
3 Nebraska, is amended to read:  
4 48-125. (1) Except as hereinafter provided, all amounts  
5 of compensation payable under the Nebraska Workers' Compensation  
6 Act shall be payable periodically in accordance with the methods of  
7 payment of wages of the employee at the time of the injury or  
8 death. Fifty ; ~~except that fifty~~ percent shall be added for  
9 waiting time for all delinquent payments after thirty days' notice  
10 has been given of disability or after thirty days from the entry of  
11 a final order, award, or judgment of the compensation court, ~~except~~  
12 that for any award or judgment against the state in excess of one  
13 hundred thousand dollars which must be reviewed by the Legislature  
14 as provided in section 48-1,102, fifty percent shall be added for

15 waiting time for delinquent payments thirty days after the  
16 effective date of the legislative bill appropriating any funds  
17 necessary to pay the portion of the award or judgment in excess of  
18 one hundred thousand dollars. Such payments shall be sent directly  
19 to the person entitled to compensation or his or her designated  
20 representative except as otherwise provided in section 48-149.  
21 (2) Whenever the employer refuses payment of compensation  
22 or medical payments subject to section 48-120, or when the employer  
23 neglects to pay compensation for thirty days after injury or  
24 neglects to pay medical payments subject to such section after  
1 thirty days' notice has been given of the obligation for medical  
2 payments, and proceedings are held before the Nebraska Workers'  
3 Compensation Court, a reasonable attorney's fee shall be allowed  
4 the employee by the compensation court in all cases when the  
5 employee receives an award. Attorney's fees allowed shall not be  
6 deducted from the amounts ordered to be paid for medical services  
7 nor shall attorney's fees be charged to the medical providers. If  
8 the employer files an application for review before the  
9 compensation court from an award of a judge of the compensation  
10 court and fails to obtain any reduction in the amount of such  
11 award, the compensation court shall allow the employee a reasonable  
12 attorney's fee to be taxed as costs against the employer for such  
13 review, and the Court of Appeals or Supreme Court shall in like  
14 manner allow the employee a reasonable sum as attorney's fees for  
15 the proceedings in the Court of Appeals or Supreme Court. If the  
16 employee files an application for a review before the compensation  
17 court from an order of a judge of the compensation court denying an  
18 award and obtains an award or if the employee files an application  
19 for a review before the compensation court from an award of a judge  
20 of the compensation court when the amount of compensation due is  
21 disputed and obtains an increase in the amount of such award, the  
22 compensation court may allow the employee a reasonable attorney's  
23 fee to be taxed as costs against the employer for such review, and  
24 the Court of Appeals or Supreme Court may in like manner allow the  
25 employee a reasonable sum as attorney's fees for the proceedings in  
26 the Court of Appeals or Supreme Court. A reasonable attorney's fee  
27 allowed pursuant to this section shall not affect or diminish the  
1 amount of the award.  
2 (2) (3) When an attorney's fee is allowed pursuant to  
3 this section, there shall further be assessed against the employer  
4 an amount of interest on the final award obtained, computed from  
5 the date compensation was payable, as provided in section 48-119,  
6 at a rate equal to the rate of interest allowed per annum under  
7 section 45-104.01, as such rate may from time to time be adjusted  
8 by the Legislature. Interest shall apply only to those weekly  
9 compensation benefits awarded which have accrued at the time  
10 payment is made by the employer. If the employer pays or tenders  
11 payment of compensation, the amount of compensation due is  
12 disputed, and the award obtained is greater than the amount paid or

13 tendered by the employer, the assessment of interest shall be  
 14 determined solely upon the difference between the amount awarded  
 15 and the amount tendered or paid.  
 16 Sec. 2. Section 48-1,102, Reissue Revised Statutes of  
 17 Nebraska, is amended to read:  
 18 48-1,102. Any final, nonappealable award to a claimant  
 19 ~~and any or~~ judgment in favor of a claimant under sections 48-192 to  
 20 48-1,109 shall be certified by the Attorney General to the Risk  
 21 Manager and to the Director of Administrative Services. The  
 22 Director of Administrative Services ; ~~who~~ shall promptly issue his  
 23 or her warrant for payment of such award or judgment out of the  
 24 Workers' Compensation Claims Revolving Fund, if sufficient money is  
 25 available in such fund, except that no portion in excess of ~~fifty~~  
 26 one hundred thousand dollars of any award or judgment shall be paid  
 27 until such award or judgment has been reviewed by the Legislature  
 1 and specific appropriation made therefor. Notice of any portion of  
 2 an award or judgment in excess of one hundred thousand dollars  
 3 shall be delivered by the Risk Manager to the chairperson of the  
 4 Business and Labor Committee of the Legislature at the next regular  
 5 session of the Legislature convening after the date the award or  
 6 judgment becomes final and nonappealable. Delivery of any warrant  
 7 in satisfaction of an award or judgment shall be made only upon  
 8 receipt of a written receipt by the claimant in a form provided by  
 9 the Attorney General."

**LEGISLATIVE BILL 395.** Placed on General File as amended.  
 Standing Committee amendment to LB 395:  
 AM0307

1 1. Strike beginning with "Service" on page 2, line 26,  
 2 through "compensation" on page 3, line 2, and insert "Service  
 3 performed by a person who is engaged in an agricultural operation,  
 4 or performed by his or her related employees, when the service  
 5 performed is (i) occasional and (ii) for another person who is  
 6 engaged in an agricultural operation who has provided or will  
 7 provide reciprocal or similar service".

**LEGISLATIVE BILL 415.** Placed on General File as amended.  
 Standing Committee amendment to LB 415:  
 AM0568

1 1. Strike original section 1 and insert the following  
 2 section:  
 3 "Section 1. Any compensation court document or any  
 4 compensation court information available by electronic means which  
 5 reveals the identity of an employee, the nature of an employee's  
 6 alleged injury, an employee's past or present medical condition,  
 7 the extent of an employee's disability, the amount, type, or  
 8 duration of benefits paid to an employee, or the application  
 9 information for self-insurance is confidential and not open to  
 10 public inspection or copying, except as otherwise provided in this

11 section and as necessary for the compensation court to administer  
 12 and enforce other provisions of the Nebraska Workers' Compensation  
 13 Act. The compensation court shall deny any request to inspect or  
 14 copy a record that is confidential under this section unless:  
 15 (1) The requestor is the employee who is the subject of  
 16 the record or an attorney or authorized agent of that employee. An  
 17 attorney or authorized agent of the employee shall provide a  
 18 written authorization for inspection or copying from the employee;  
 19 (2) The requestor is the employer, workers' compensation  
 20 insurer, risk management pool, or third-party administrator that is  
 21 a party to the record or an attorney or authorized agent of such  
 22 employer, workers' compensation insurer, risk management pool, or  
 23 third-party administrator. An attorney or authorized agent of an  
 24 employer, workers' compensation insurer, risk management pool, or  
 1 third-party administrator shall provide a written authorization for  
 2 inspection or copying from the employer, workers' compensation  
 3 insurer, risk management pool, or third-party administrator;  
 4 (3) The information is used for the purpose of state or  
 5 federal investigations or examinations or for the state or federal  
 6 government to compile statistical information;  
 7 (4) The document requested is a pleading filed in a  
 8 compensation court docketed file, an exhibit offered and received  
 9 into evidence by the compensation court, or a final order, award,  
 10 or judgment of the compensation court; or  
 11 (5) The information requested identifies the number and  
 12 nature of any injuries to employees of a employer identified in the  
 13 request, or any benefits paid to such employees, without revealing  
 14 the identity of any employee or the medical condition or extent of  
 15 disability of any employee."

(Signed) Douglas Cunningham, Chairperson

## GENERAL FILE

**LEGISLATIVE BILL 546.** Title read. Considered.

Senator Brown offered the following amendment:

FA72

1. On page 3 strike "regional zoning" and insert "uniform county zoning within the opportunity zone."
- 1 1. On page 5, line 12, after "(h)" insert "One member
- 2 representing cities of the first class within Douglas, Sarpy,
- 3 Lancaster, Cass, and Saunders counties appointed by the other
- 4 members of the commission;
- 5 (i) One member representing cities of the second class
- 6 and villages within Douglas, Sarpy, Lancaster, Cass, and Sanders
- 7 counties appointed by the other members of the commission;
- 8 (j)"; in line 14 strike "(i)" and insert "(k)"; in line
- 9 15 strike "(j)" and insert "(l)"; and in line 17 strike "(k)" and

10 insert "(m)".

The Brown amendment was adopted with 28 ayes, 0 nays, 14 present and not voting, and 7 excused and not voting.

Senator Schimek offered the following amendment:  
FA73

The provisions of this act shall terminate on December 31, 2010.

The Schimek amendment was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 546A.** Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 44.** Title read. Considered.

The Standing Committee amendment, AM0248, found on page 440, was considered.

Pending.

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 77A.** Introduced by Baker, 44.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 77, Ninety-ninth Legislature, First Session, 2005.

### **STANDING COMMITTEE REPORTS** **Education**

**LEGISLATIVE BILL 583.** Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

### **Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 519.** Placed on General File as amended.  
Standing Committee amendment to LB 519:  
AM0587

1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 49-1499.03, Reissue Revised Statutes  
4 of Nebraska, is amended to read:  
5 49-1499.03. (1)(a) An official of a political  
6 subdivision designated in section 49-1493 ~~and a member of any~~  
7 ~~school board~~ who would be required to take any action or make any  
8 decision in the discharge of his or her official duties that may  
9 cause financial benefit or detriment to him or her, a member of his  
10 or her immediate family, or a business with which he or she is  
11 associated, which is distinguishable from the effects of such  
12 action on the public generally or a broad segment of the public,  
13 shall take the following actions as soon as he or she is aware of  
14 such potential conflict or should reasonably be aware of such  
15 potential conflict, whichever is sooner:  
16 (a) (i) Prepare a written statement describing the matter  
17 requiring action or decision and the nature of the potential  
18 conflict; and  
19 (b) (ii) Deliver a copy of the statement to the  
20 commission and to the person in charge of keeping records for the  
21 political subdivision who shall enter the statement onto the public  
22 records of the subdivision.  
23 (b) The official shall take such action as the commission  
24 shall advise or prescribe to remove himself or herself from  
1 influence over the action or decision on the matter.  
2 (2) ~~This section~~ (c) This subsection does not prevent  
3 such a person from making or participating in the making of a  
4 governmental decision to the extent that the individual's  
5 participation is legally required for the action or decision to be  
6 made. A person acting pursuant to this ~~subsection~~ subdivision  
7 shall report the occurrence to the commission.  
8 (2)(a) Any person holding an elective office of a city or  
9 village not designated in section 49-1493 and any person holding an  
10 elective office of a school district who would be required to take  
11 any action or make any decision in the discharge of his or her  
12 official duties that may cause financial benefit or detriment to  
13 him or her, a member of his or her immediate family, or a business  
14 with which he or she is associated, which is distinguishable from  
15 the effects of such action on the public generally or a broad  
16 segment of the public, shall take the following actions as soon as  
17 he or she is aware of such potential conflict or should reasonably  
18 be aware of such potential conflict, whichever is sooner:  
19 (i) Prepare a written statement describing the matter  
20 requiring action or decision and the nature of the potential  
21 conflict;  
22 (ii) Deliver a copy of the statement to the person in  
23 charge of keeping records for the city, village, or school district  
24 who shall enter the statement onto the public records of the city,  
25 village, or school district; and

- 26 (iii) Abstain from participating or voting on the matter  
 27 in which the person holding elective office has a conflict of  
 1 interest.  
 2 (b) The person holding elective office may apply to the  
 3 commission for an opinion as to whether the person has a conflict  
 4 of interest.  
 5 (3) Either sections 49-14,102 and 49-14,103 or sections  
 6 49-14,103.01 to 49-14,103.06 apply to interests in contracts by  
 7 officials of a political subdivision. Matters involving an interest  
 8 in a contract are governed either by sections 49-14,102 and  
 9 49-14,103 or by sections 49-14,103.01 to 49-14,103.06. Matters  
 10 involving the hiring of an immediate family member are governed by  
 11 section 49-1499.01 or 49-1499.04.  
 12 Sec. 2. Original section 49-1499.03, Reissue Revised  
 13 Statutes of Nebraska, is repealed."

(Signed) DiAnna R. Schimek, Chairperson

### Urban Affairs

**LEGISLATIVE BILL 48.** Placed on General File as amended.  
 (Standing Committee amendment, AM0662, is printed separately and  
 available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 289.** Placed on General File as amended.  
 Standing Committee amendment to LB 289:  
 AM0536

- 1 1. Insert the following new section:  
 2 "Sec. 2. Any natural gas public utility, as defined in  
 3 section 66-1802, shall have standing to challenge an annexation by  
 4 a city or village which owns or operates a natural gas utility if  
 5 such annexation includes customers served by the natural gas public  
 6 utility.".

**LEGISLATIVE BILL 748.** Placed on General File as amended.  
 Standing Committee amendment to LB 748:  
 AM0435

- 1 1. Strike original section 1 and insert the following  
 2 new section:  
 3 "Sec. 16. Section 57-1306, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 57-1306. If the investor-owned natural gas utility or  
 6 the metropolitan utilities district disagrees with a determination  
 7 by an investor-owned natural gas utility or a metropolitan  
 8 utilities district that a proposed extension or enlargement is in  
 9 the public interest, the matter may be submitted to the Public  
 10 Service Commission for hearing and determination in the county  
 11 where the extension or enlargement is proposed and shall be subject  
 12 to the applicable procedures provided in sections 75-112, 75-129,

13 and 75-134 to 75-136. In making a determination whether a proposed  
 14 extension or enlargement is in the public interest, the commission  
 15 shall consider the factors set forth in sections 57-1303 and  
 16 57-1304. The commission shall have no jurisdiction over a  
 17 metropolitan utilities district ~~or natural gas utility~~ beyond the  
 18 determination of disputes brought before it under sections 57-1301  
 19 to 57-1307 and certification as a competitive natural gas provider  
 20 in accordance with sections 66-1848 and 66-1849. Ratepayers of the  
 21 investor-owned natural gas utility or the metropolitan utilities  
 22 district shall have the right to appear and present testimony  
 23 before the commission on any matter submitted to the commission  
 24 under sections 57-1301 to 57-1307 and shall have such testimony  
 1 considered by the commission in arriving at its determination.".

2 2. On page 6, strike beginning with "take" in line 14  
 3 through "Commission" in line 16 and insert "be a competitive  
 4 natural gas provider by obtaining certification in accordance with  
 5 sections 66-1848 and 66-1849".

6 3. On page 7, line 22, reinstate the stricken  
 7 "boundary"; and in line 23 before the period insert ", except that  
 8 when such facilities are located within the corporate boundaries or  
 9 extraterritorial zoning jurisdiction of a city of the primary,  
 10 first, or second class or village, or when such facilities are  
 11 located on property owned or leased by a city of the primary,  
 12 first, or second class or village, the district shall not acquire  
 13 such facilities by condemnation or eminent domain unless the city  
 14 or village adopts a resolution approving such acquisition".

15 4. On page 15, line 25, strike "1" and insert "2".

16 5. On page 20, line 12, strike "A" and insert "Except as  
 17 provided in sections 66-1848 and 66-1849, a".

18 6. On page 21, line 24, after "utility" insert "and a  
 19 city-owned or operated natural gas utility or metropolitan  
 20 utilities district except as provided in subdivision (2)(b)(ii) of  
 21 this section".

22 7. On page 22, line 1, strike the new matter; reinstate  
 23 the stricken matter in lines 1 and 2; and in line 19 after the  
 24 third comma insert "57-1306,".

25 8. Renumber the remaining sections accordingly.

(Signed) Mike Friend, Chairperson

### General Affairs

**LEGISLATIVE BILL 108.** Indefinitely postponed.

**LEGISLATIVE BILL 530.** Indefinitely postponed.

**LEGISLATIVE BILL 733.** Indefinitely postponed.

(Signed) Ray Janssen, Chairperson

**Transportation and Telecommunications**

**LEGISLATIVE BILL 343.** Placed on General File as amended.

Standing Committee amendment to LB 343:

AM0648

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 86-401, Revised Statutes Supplement,
- 4 2004, is amended to read:
- 5 86-401. Sections 86-401 to ~~86-419~~ 86-418 and section 7
- 6 of this act shall be known and may be cited as the Nebraska Public
- 7 Safety Wireless Communication System Act.
- 8 Sec. 2. Section 86-402, Revised Statutes Supplement,
- 9 2004, is amended to read:
- 10 86-402. The Legislature finds that:
- 11 (1) During emergencies the resources of the state and its
- 12 political subdivisions must be effectively directed to save lives,
- 13 to protect property, and to meet the needs of its citizens;
- 14 (2) Public safety agencies fulfill this unique and
- 15 essential role;
- 16 (3) Public safety agencies are only as effective as their
- 17 ability to communicate. To adequately ensure public safety, such
- 18 agencies require an efficient, reliable communication system which
- 19 accounts for their unique role and the specialized needs that
- 20 accompany such role;
- 21 (4) Present radio communication systems used by public
- 22 safety agencies during daily operations and emergencies are
- 23 deficient. Nebraska's systems are based on outdated technologies,
- 24 rely on inadequate equipment, are susceptible to communication
- 1 interference, have limited coverage areas, operate under the
- 2 constraints of a limited number of radio frequency channels, and
- 3 lack coordination and the ability to interoperate among city,
- 4 county, and other local users, state users, and federal users.
- 5 Additionally, such systems presently do not allow for secure
- 6 transmissions which are necessary for the protection and integrity
- 7 of public safety communications;
- 8 (5) Recent changes and advances in communication
- 9 technology, including wireless communication, would increase the
- 10 capability of public safety agencies to provide efficient and
- 11 effective public safety services;
- 12 (6) Investment in the public safety communication
- 13 infrastructure is required to ensure the effectiveness of
- 14 Nebraska's public safety agencies. Since the maintenance of public
- 15 safety is a paramount concern but the cost of purchasing and
- 16 operating multiple communication infrastructures is prohibitive, it
- 17 is imperative that local and state public safety agencies cooperate
- 18 in their efforts to obtain a single statewide seamless
- 19 communication system; ~~and~~
- 20 (7) Regional approaches to communications planning and

21 preparedness and the adoption of regional response structures  
22 should be used to develop and sustain interoperable communications.  
23 Local and state public safety agencies shall develop a  
24 comprehensive interoperable communications plan before receiving  
25 any state or federal funding to build, upgrade, enhance, or replace  
26 communications systems; and

27 (8) A statewide seamless communication system should  
1 balance the need for multiple simultaneous users while maintaining  
2 autonomy for the internal use of individual agencies. The  
3 objectives of such a system should include maximizing resources and  
4 reducing duplication among public safety agencies as well as  
5 encouraging cooperation, coordination, consolidation, sharing, and  
6 partnerships between public agencies and private entities.

7 Sec. 3. Section 86-410, Revised Statutes Supplement,  
8 2004, is amended to read:

9 86-410. In order to establish a system:

10 (1) ~~An an~~ acquisition agency may be established as a  
11 joint entity under the Interlocal Cooperation Act. An acquisition  
12 agency shall acquire real and personal property for use in  
13 connection with such system and shall construct any facilities  
14 necessary to implement such system. ~~;~~ and

15 (2) ~~An alliance may be established as a joint entity~~  
16 ~~under the Interlocal Cooperation Act to operate, maintain, and~~  
17 ~~manage the system. In addition to the requirements in section~~  
18 ~~13-804, an agreement to establish an alliance may provide that the~~  
19 ~~State of Nebraska, on behalf of the Department of Administrative~~  
20 ~~Services, the Game and Parks Commission, and the Board of Regents~~  
21 ~~of the University of Nebraska, may be a member of the alliance.~~

22 Sec. 4. Section 86-414, Revised Statutes Supplement,  
23 2004, is amended to read:

24 86-414. (1) An acquisition agency may acquire real and  
25 personal property and may construct facilities based upon (a) the  
26 implementation plan, (b) the ongoing advice and assistance of the  
27 ~~board and the~~ division, and (c) the determinations made by the  
1 members and governing body of the acquisition agency.

2 (2) ~~An alliance is a public body which may be operated~~  
3 ~~not for profit with no profit or dividend inuring to the benefit of~~  
4 ~~any individual. An alliance may employ consultants and other~~  
5 ~~persons as deemed necessary and may set and approve compensation~~  
6 ~~for such consultants and other persons. An alliance may have all~~  
7 ~~powers authorized under the Nebraska Public Safety Wireless~~  
8 ~~Communication System Act and the Interlocal Cooperation Act and may~~  
9 ~~operate, maintain, and manage the system pursuant to an operating~~  
10 ~~agreement entered into by the acquisition agency and the alliance.~~  
11 ~~Any operating agreement may provide that the alliance shall (a)~~  
12 ~~make the system available for the use of public safety agencies and~~  
13 ~~(b) allow local, state, and federal public safety agencies to~~  
14 ~~interconnect with the system's infrastructure to enable~~  
15 ~~multi-agency, multijurisdictional responses to public safety~~

16 ~~situations.~~

17 ~~(3) The Governor, acting on behalf of the state or any of~~  
18 ~~its agencies or departments, may assign any license or other user~~  
19 ~~rights relating to or useful for public safety communications,~~  
20 ~~whether presently owned or subsequently acquired on April 20, 2002,~~  
21 ~~to an alliance or acquisition agency. The state shall retain~~  
22 ~~ownership of the license or other user rights.~~

23 Sec. 5. Section 86-415, Revised Statutes Supplement,  
24 2004, is amended to read:

25 86-415. (1) The State of Nebraska, on behalf of the  
26 Department of Administrative Services and the Game and Parks  
27 Commission, is authorized to enter into a service agreement for a  
1 statewide seamless wireless communication system with:  
2 ~~(a) Any any acquisition agency. The service agreement~~  
3 ~~may extend for a term of years subject to appropriation of funds~~  
4 ~~for payment and shall provide for contracting for user rights with~~  
5 ~~respect to the real and personal property owned by the acquisition~~  
6 ~~agency and used in connection with the system. ; and~~  
7 ~~(b) Any alliance. The service agreement may extend for a~~  
8 ~~term of years subject to appropriation of funds for payment and~~  
9 ~~shall specify the services to be provided by the alliance in~~  
10 ~~operating, maintaining, and managing the system.~~

11 (2) The Board of Regents of the University of Nebraska  
12 may, in its discretion, participate as a contracting party in any  
13 service agreement entered into pursuant to subsection (1) of this  
14 section.

15 Sec. 6. Section 86-418, Revised Statutes Supplement,  
16 2004, is amended to read:

17 86-418. The division shall develop and adopt technical  
18 and operational standards for any wireless communication system  
19 acquired, developed, constructed, or replaced by any state agency  
20 or any city, county, village, public power district, fire  
21 protection district, or other political subdivision, including  
22 joint entities and joint public agencies created pursuant to the  
23 Interlocal Cooperation Act or Joint Public Agency Act. The ~~board~~  
24 ~~with the~~ division shall develop incentives to encourage regional  
25 cooperation in public safety communication throughout the state.  
26 The ~~board~~ division shall assist local communities and public safety  
27 agencies which desire to connect with the system. Incentive  
1 alternatives may include financial incentives to encourage  
2 migration by communities to the system and to reward communities  
3 which coordinate efforts to form public safety communication  
4 centers. Such incentives shall not mandate migration by public  
5 safety agencies to the system.

6 Sec. 7. (1) The Regional Interoperability Advisory Board  
7 is created. The board shall provide advice to the division  
8 regarding the formation, expansion, and enhancement of regional  
9 wireless communication systems to achieve interoperability. For  
10 administrative and budgetary purposes, the board shall be within

- 11 the division. The division shall provide office space, equipment,  
12 technical assistance, and staff support for the board.  
13 (2) The advisory board shall consist of the following  
14 members, all of whom shall be individuals with knowledge of the  
15 communications needs of their represented constituency. The  
16 advisory board shall be comprised of:  
17 (a) A representative of the division;  
18 (b) A representative of the Nebraska Emergency Management  
19 Agency;  
20 (c) Four representatives of regional wireless  
21 communications systems.  
22 (3) The members of the board shall be appointed by the  
23 Governor. Each member's term shall be for two years from the date  
24 of appointment. Members shall be reimbursed from the Public Safety  
25 Communications Fund for their actual and necessary expenses  
26 incurred in the performance of their duties as provided in sections  
27 81-1174 to 81-1177.  
1 (4) The board shall terminate on January 1, 2009.  
2 Sec. 8. Section 86-516, Revised Statutes Supplement,  
3 2004, is amended to read:  
4 86-516. The commission shall:  
5 (1) Annually by July 1, adopt policies and procedures  
6 used to develop, review, and annually update a statewide technology  
7 plan;  
8 (2) Create an information technology clearinghouse to  
9 identify and share best practices and new developments, as well as  
10 identify existing problems and deficiencies;  
11 (3) Review and adopt policies to provide incentives for  
12 investments in information technology infrastructure services;  
13 (4) Determine a broad strategy and objectives for  
14 developing and sustaining information technology development in  
15 Nebraska, including long-range funding strategies, research and  
16 development investment, support and maintenance requirements, and  
17 system usage and assessment guidelines;  
18 (5) Adopt guidelines regarding project planning and  
19 management, information sharing, and administrative and technical  
20 review procedures involving state-owned or state-supported  
21 technology and infrastructure. Governmental entities, state  
22 agencies, and political subdivisions shall submit projects which  
23 directly utilize state-appropriated funds for information  
24 technology purposes to the process established by sections 86-512  
25 to 86-524. Governmental entities and political subdivisions may  
26 submit other projects involving information technology to the  
27 commission for comment, review, and recommendations;  
1 (6) Adopt minimum technical standards, guidelines, and  
2 architectures upon recommendation by the technical panel;  
3 (7) Establish ad hoc technical advisory groups to study  
4 and make recommendations on specific topics, including work groups  
5 to establish, coordinate, and prioritize needs for education, local

6 communities, and state agencies;

7 (8) By November 15 of each even-numbered year, make  
8 recommendations on technology investments to the Governor and the  
9 Legislature, including a prioritized list of projects, reviewed by  
10 the technical panel, for which new or additional funding is  
11 requested;

12 (9) Approve grants from the Community Technology Fund and  
13 Government Technology Collaboration Fund; and

14 (10) Adopt schedules and procedures for reporting needs,  
15 priorities, and recommended projects; ~~and~~

16 ~~(11) Provide assistance upon request to the Public Safety~~  
17 ~~Wireless Communication Advisory Board.~~

18 Sec. 9. Section 86-543, Revised Statutes Supplement,  
19 2004, is amended to read:

20 86-543. (1) The council shall:

21 (a) Develop and publish one-year and five-year plans,  
22 specifications, and recommendations for the data processing needs  
23 of the state and for a network to provide for intergovernmental  
24 transfer of data;

25 (b) Seek to eliminate duplication of effort through  
26 coordination of related projects;

27 (c) Promote flexibility in the collection, use, and  
1 exchange of information in anticipation of future needs of the  
2 state and its political subdivisions;

3 (d) Identify and recommend data processing applications  
4 in anticipation of the future needs of state and local governments;

5 (e) Promote intergovernmental exchanges of data and  
6 technical expertise;

7 (f) Report to, assist, and advise the Chief Information  
8 Officer in setting information technology policy; and

9 (g) Provide assistance as requested by the Nebraska  
10 Information Technology Commission to support the technical panel  
11 created in section 86-521; ~~and~~

12 ~~(h) Provide assistance upon request to the Public Safety~~  
13 ~~Wireless Communication Advisory Board.~~

14 (2) The council may study and make recommendations,  
15 including a cost-benefit analysis, concerning:

16 (a) State projects which involve intergovernmental  
17 transfer of information in an electronic medium or  
18 multijurisdictional data processing projects; and

19 (b) A local project only if the request for assistance  
20 comes from the governmental subdivisions involved in the project.

21 Sec. 10. Section 86-572, Revised Statutes Supplement,  
22 2004, is amended to read:

23 86-572. The Geographic Information System Steering  
24 Committee shall:

25 (1) Make recommendations to the Legislature for program  
26 initiatives and funding;

27 (2) Establish guidelines and policies for statewide

- 1 Geographic Information System operations and management to include:  
 2 (a) The acquisition, development, maintenance, quality  
 3 assurance such as quality control standards, access, ownership,  
 4 cost recovery, and priorities of data bases;  
 5 (b) The compatibility, acquisition, and communications of  
 6 hardware and software;  
 7 (c) The assessment of needs, identification of scope,  
 8 setting of standards, and determination of an appropriate  
 9 enforcement mechanism;  
 10 (d) The fostering of training programs and promoting  
 11 education and information about the Geographic Information System;  
 12 and  
 13 (e) The promoting of the Geographic Information System  
 14 development in the State of Nebraska and providing or coordinating  
 15 additional support to address Geographic Information System issues  
 16 as such issues arise;  
 17 (3) Report to, assist, and advise the Chief Information  
 18 Officer in setting information technology policy; and  
 19 (4) Provide assistance as requested by the Nebraska  
 20 Information Technology Commission to support the technical panel  
 21 created in section 86-521. ~~÷ and~~  
 22 ~~(5) Provide assistance upon request to the Public Safety~~  
 23 ~~Wireless Communication Advisory Board.~~  
 24 Sec. 11. Original sections 86-401, 86-402, 86-410,  
 25 86-414, 86-415, 86-418, 86-516, 86-543, and 86-572, Revised  
 26 Statutes Supplement, 2004, are repealed.  
 27 Sec. 12. The following sections are outright repealed:  
 1 Sections 86-405, 86-406, 86-411 to 86-413, and 86-419, Revised  
 2 Statutes Supplement, 2004.  
 3 Sec. 13. Since an emergency exists, this act takes  
 4 effect when passed and approved according to law."

(Signed) Tom Baker, Chairperson

### AMENDMENT - Print in Journal

Senator Schrock filed the following amendment to LB 121:  
 AM0664

- 1 1. On page 2, strike lines 13 through 16 and insert the  
 2 following:  
 3 "(2) The commission shall establish a fee of five dollars  
 4 for the discounted permit. The commission may authorize electronic  
 5 issuance of the discounted permit.  
 6 (3)(a) Notwithstanding any provision of section 37-407 to  
 7 the contrary, a Nebraska resident who purchased a big game permit  
 8 and who was deployed out of state with a branch of the United  
 9 States military for the entire season of the hunt and who was  
 10 unable to use the permit shall be entitled to receive a discounted  
 11 permit on a one-time basis upon returning to the state if the

12 resident provides to the commission satisfactory proof of purchase  
13 of the original permit and evidence of the resident's deployment.  
14 Alternatively, the member of the military may request a refund of  
15 the amount paid for a big game permit and the commission shall pay  
16 such amount.  
17 (b) For purposes of this subsection, big game means  
18 antelope, deer, elk, mountain sheep, and wild turkeys."; and in  
19 line 17 strike "(3)" and insert "(4)".

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Aguilar asked unanimous consent to have his name added as cointroducer to LB 264. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LBs 437, 558, 697, and 760. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LR 15. No objections. So ordered.

Senator Schimek asked unanimous consent to have her name added as cointroducer to LB 760. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 90 high school students and teacher from Millard West High School; Elizabeth Breunig, Annie Butterfield, Suzanne Krutz, Lindsay Kramer, and Steve Hromas from Midland College, Fremont; seventh- and twelfth-grade students and teachers from Nelson School; 75 fifth-grade students and teachers from Thomas Elementary School, Gretna; and Zoltan Toth from Hungary.

The Doctor of the Day was Dr. Gilbert Head from Omaha.

### **ADJOURNMENT**

At 11:56 a.m., on a motion by Senator Preister, the Legislature adjourned until 9:00 a.m., Thursday, March 3, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**THIRTY-EIGHTH DAY - MARCH 3, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****THIRTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, March 3, 2005

**PRAYER**

The prayer was offered by Senator Kruse.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Cornett, Hudkins, Kremer, Redfield, Stuthman, and Wehrbein who were excused; and Senator Brown who was excused until she arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-seventh day was approved.

**SELECT COMMITTEE REPORTS  
Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 499, 503, and 533.

ER9006

Enrollment and Review Change to LB 533

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 34, line 12, "section" has been struck, shown as stricken, and "sections" inserted.

(Signed) Michael Flood, Chairperson

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of March 2, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Bromm, Curt  
ProRail Nebraska, Inc.

Cavanaugh Law Firm, PC, LLO  
Snack Food Association

Cutshall & Associates  
Next Generation Nebraska

Kohler, Mike  
Cox Nebraska Telcom, LLC

Nielsen, Coleen J.  
Schering-Plough External Affairs, Inc.

O'Hara, Lindsay & Associates, Inc.  
Next Generation Nebraska

Peetz, Natalie, Peetz and Company  
Next Generation Nebraska

Radcliffe, Walter H. of Radcliffe & Associates  
Next Generation Nebraska

Ruth Mueller Robak LLC  
Next Generation Nebraska

**REPORTS**

The following reports were received by the Legislature:

**Investment Finance Authority**

Clean Water State Revolving Fund Revenue Bonds Notice  
Drinking Water State Revolving Fund Revenue Bonds Notice

**NOTICE OF COMMITTEE HEARINGS**

**Appropriations**  
Room 1524

LB 605      Tuesday, March 15, 2005      1:30 p.m.

Tuesday, March 15, 2005

1:30 p.m.

AGENCY 47 - Educational Telecommunications Commission

AGENCY 51 - University of Nebraska

#### Room 1003

LB 392      Wednesday, March 16, 2005      1:30 p.m.

LB 560      Wednesday, March 16, 2005      1:30 p.m.

Wednesday, March 16, 2005

1:30 p.m.

AGENCY 22 - Department of Insurance

AGENCY 23 - Department of Labor

AGENCY 87 - Accountability and Disclosure Commission

AGENCY 65 - Department of Administrative Services

LB 751      Thursday, March 17, 2005      1:30 p.m.

Thursday, March 17, 2005

1:30 p.m.

AGENCY 7 - Governor

AGENCY 8 - Lieutenant Governor

AGENCY 9 - Secretary of State

AGENCY 10 - Auditor of Public Accounts

AGENCY 12 - State Treasurer

AGENCY 14 - Public Service Commission

AGENCY 3 - Legislative Council

(Signed) Don Pederson, Chairperson

### SELECT COMMITTEE REPORTS

#### Enrollment and Review

**LEGISLATIVE BILL 298.** Placed on Select File as amended.

(E & R amendment, AM7029, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 335.** Placed on Select File.

**LEGISLATIVE BILL 198.** Placed on Select File as amended.

E & R amendment to LB 198:

AM7031

- 1 1. On page 1, line 3, after "for" insert "state aid".
- 2 2. On page 4, line 23, strike the first "the".
- 3 3. On page 5, lines 15 and 16, strike the new matter and
- 4 reinstate the stricken matter.

**LEGISLATIVE BILL 10.** Placed on Select File.

**LEGISLATIVE BILL 236.** Placed on Select File.

**LEGISLATIVE BILL 238.** Placed on Select File.

**LEGISLATIVE BILL 262.** Placed on Select File as amended.

E & R amendment to LB 262:

AM7032

- 1 1. On page 4, line 27, after "governing" insert an
- 2 underscored comma.

**LEGISLATIVE BILL 355.** Placed on Select File.

**LEGISLATIVE BILL 211.** Placed on Select File as amended.

E & R amendment to LB 211:

AM7033

- 1 1. On page 3, line 9, strike "(4)" and insert "(3)".

**LEGISLATIVE BILL 211A.** Placed on Select File.

**LEGISLATIVE BILL 287.** Placed on Select File.

**LEGISLATIVE BILL 284.** Placed on Select File.

**LEGISLATIVE BILL 139.** Placed on Select File as amended.

E & R amendment to LB 139:

AM7034

- 1 1. On page 1, line 1, strike "public power districts"
- 2 and insert "the public power industry"; and in line 8 after
- 3 "production" insert ", storage, and distribution".
- 4 2. On page 10, line 2, strike ", or any successor
- 5 thereof", show as stricken, and insert "or its successor".
- 6 3. On page 27, line 5, strike "ethanol" and insert
- 7 "hydrogen".

**LEGISLATIVE BILL 441.** Placed on Select File.

(Signed) Michael Flood, Chairperson

## **STANDING COMMITTEE REPORTS**

### **Banking, Commerce and Insurance**

**LEGISLATIVE BILL 568.** Placed on General File as amended.

Standing Committee amendment to LB 568:

AM0413

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 45-901, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 45-901. Sections 45-901 to 45-929 and section 11 of this
- 6 act shall be known and may be cited as the Delayed Deposit Services
- 7 Licensing Act.
- 8 Sec. 2. Section 45-906, Reissue Revised Statutes of

9 Nebraska, is amended to read:

10 45-906. The application required by section 45-905 shall  
11 be accompanied by:

12 (1) A nonrefundable application fee of five hundred  
13 dollars; and

14 (2) A surety bond in the sum of fifty thousand dollars to  
15 be executed by the licensee and a surety company authorized to do  
16 business in Nebraska and approved by the director conditioned for  
17 the faithful performance by the licensee of the duties and  
18 obligations pertaining to the delayed deposit services business so  
19 licensed and the prompt payment of any judgment recovered against  
20 the licensee. The bond or a substitute bond shall remain in effect  
21 during all periods of licensing or the licensee shall immediately  
22 cease doing business and its license shall be surrendered to or  
23 canceled by the department. A surety may cancel a bond only upon  
24 thirty days' written notice to the director.

1 (3) The director may at any time require the filing of a  
2 new or supplemental bond in the form as provided in subsection (2)  
3 of this section if he or she determines that the bond filed under  
4 this section is exhausted or is inadequate for any reason,  
5 including, but not limited to, the financial condition of the  
6 licensee or the applicant for a license, or violations of the  
7 Delayed Deposit Services Licensing Act, any rule, regulation, or  
8 order thereunder, or any state or federal law applicable to the  
9 licensee or applicant for a license. The new or supplemental bond  
10 shall not exceed one hundred thousand dollars.

11 Sec. 3. Section 45-907, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 45-907. (1) When an application for a delayed deposit  
14 services business license has been accepted by the director as  
15 substantially complete, notice of the filing of the application  
16 shall be published by the director for three successive weeks in a  
17 legal newspaper published in or of general circulation in the  
18 county where the applicant proposes to operate the delayed deposit  
19 services business. The costs of the publication shall be paid by  
20 the applicant. A public hearing shall be held on each application  
21 except as provided in subsection (2) of this section. The date for  
22 hearing shall not be less than thirty days after the last  
23 publication. Written protest against the issuance of the license  
24 may be filed with the Department of Banking and Finance by any  
25 person not less than five days before the date set for hearing.  
26 The director, in his or her discretion, may grant a continuance.

27 The costs of the hearing shall be paid by the applicant. The  
1 director may investigate the propriety of the issuance of a license  
2 to the applicant. The costs of such investigation shall be paid by  
3 the applicant.

4 (2) The director may waive the hearing requirements of  
5 subsection (1) of this section if (a) the applicant has held and  
6 operated under a license to engage in the delayed deposit services

7 business in Nebraska pursuant to the Delayed Deposit Services  
8 Licensing Act for at least three calendar years immediately prior  
9 to the filing of the application, (b) no written protest against  
10 the issuance of the license has been filed with the department  
11 within fifteen days after publication of a notice of the filing of  
12 the application one time in a newspaper of general circulation in  
13 the county where the applicant proposes to operate the delayed  
14 deposit services business, and (c) in the judgment of the director,  
15 the experience, character, and general fitness of the applicant  
16 warrant the belief that the applicant will comply with the act.

17 Sec. 4. Section 45-911, Reissue Revised Statutes of

18 Nebraska, is amended to read:

19 45-911. A licensee may surrender a delayed deposit  
20 services business license by delivering to the director written  
21 notice that the license is surrendered. The Department of Banking  
22 and Finance may issue a notice of cancellation of the license  
23 following such surrender in lieu of revocation proceedings. The  
24 surrender shall not affect the licensee's civil or criminal  
25 liability for acts committed prior to such surrender, affect the  
26 liability for any fines which may be levied against the licensee or  
27 any of its officers, directors, shareholders, partners, or members  
1 for acts committed before the surrender, affect the liability of  
2 the surety on the bond, or entitle such licensee to a return of any  
3 part of the annual license fee or fees. The director may establish  
4 procedures for the disposition of the books, accounts, and records  
5 of the licensee and may require such action as he or she deems  
6 necessary for the protection of the makers of checks which are  
7 outstanding at the time of surrender of the license.

8 Sec. 5. Section 45-912, Reissue Revised Statutes of

9 Nebraska, is amended to read:

10 45-912. A licensee shall be required to notify the  
11 director in writing within thirty days after the occurrence of any  
12 material development, including, but not limited to:

13 (1) Bankruptcy or corporate reorganization;

14 (2) Business reorganization;

15 (3) Institution of license revocation procedures by any  
16 other state or jurisdiction;

17 (4) The filing of a criminal indictment or complaint  
18 against the licensee or any of its officers, directors,  
19 shareholders, partners, members, employees, or agents; ~~or~~

20 (5) A felony conviction against the licensee or any of  
21 the licensee's officers, directors, shareholders, partners,  
22 members, employees, or agents; or

23 (6) The termination of employment or association with the  
24 licensee of any of the licensee's officers, directors,  
25 shareholders, partners, members, employees, or agents for  
26 violations or suspected violations of the Delayed Deposit Services  
27 Licensing Act, any rule, regulation, or order thereunder, or any  
1 state or federal law applicable to the licensee.

2 Sec. 6. Section 45-915, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 45-915. (1) Except as provided in subsection (2) of this  
5 section, a licensee may offer a delayed deposit services business  
6 only at an office designated as its principal place of business in  
7 the application. ~~The licensee shall maintain its books, accounts,~~  
8 ~~and records at its designated principal place of business.~~ A  
9 licensee may change the location of its designated principal place  
10 of business with the prior written approval of the director. The  
11 director may establish forms and procedures for determining whether  
12 the change of location should be approved.

13 (2) A licensee may operate branch offices only in the  
14 same county in which the licensee's designated principal place of  
15 business is located. The licensee may establish a branch office or  
16 change the location of a branch office with the prior written  
17 approval of the director. The director may establish forms and  
18 procedures for determining whether an original branch or branches  
19 or a change of location of a branch should be approved.

20 (3) A fee of one hundred fifty dollars shall be paid to  
21 the director for each request made pursuant to subsection (1) or  
22 (2) of this section.

23 Sec. 7. Section 45-917, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 45-917. (1) Every licensee shall, at the time any  
26 delayed deposit services transaction is made, give to the maker of  
27 the check, or if there are two or more makers, to one of them, a  
1 notice written in plain English disclosing:

2 (a) The fee to be charged for the transaction;

3 (b) The date on which the check will be deposited or  
4 presented for negotiation; and

5 (c) Any penalty not to exceed fifteen dollars which the  
6 licensee will charge if the check is not negotiable on the date  
7 agreed upon. If the licensee required the maker to give two checks  
8 for one delayed deposit transaction, the licensee shall charge only  
9 one penalty in the event both checks are not negotiable on the date  
10 agreed upon.

11 (2) In addition to the notice required by subsection (1)  
12 of this section, every licensee shall conspicuously display a  
13 schedule of all fees, charges, and penalties for all services  
14 provided by the licensee. Such notice shall be posted at every  
15 office of the licensee.

16 Sec. 8. Section 45-919, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 45-919. (1) No licensee shall:

19 (a) At any one time hold from any one maker more than two  
20 checks;

21 (b) At any one time hold from any one maker a check or  
22 checks in an aggregate face amount of more than five hundred  
23 dollars;

24 (c) Hold or agree to hold a check for more than  
25 thirty-one days. A check which is in the process of collection for  
26 the reason that it was not negotiable on the day agreed upon shall  
27 not be deemed as being held in excess of the thirty-one-day period;

1 (d) Require the maker to receive payment by a method  
2 which causes the maker to pay additional or further fees and  
3 charges to the licensee or other person; ~~or~~

4 (e) Accept a check as repayment, refinancing, or any  
5 other consolidation of a check or checks held by the same licensee;

6 (f) Renew, roll over, defer, or in any way extend a  
7 delayed deposit transaction by allowing the maker to pay less than  
8 the total amount of the check and any authorized fees or charges.

9 This subdivision shall not prevent a licensee that agreed to hold a  
10 check for less than thirty-one days from agreeing to hold the check  
11 for an additional period of time no greater than the thirty-one  
12 days it would have originally have been able to hold the check if

13 (i) the extension is at the request of the maker, (ii) no  
14 additional fees are charged for the extension, and (iii) the  
15 delayed deposit transaction is completed as required by subdivision  
16 (1)(c) of this section. The licensee shall retain written or  
17 electronic proof of compliance with this subdivision. If a

18 licensee fails, or is unable, to provide such proof to the  
19 department upon request, there shall be a rebuttable presumption  
20 that a violation of this subdivision has occurred and the  
21 department may pursue any remedies or actions available to it under  
22 the Delayed Deposit Services Licensing Act; or

23 (g) Enter into another delayed deposit transaction with  
24 the same maker on the same business day as the completion of a  
25 delayed deposit transaction unless prior to entering into the  
26 transaction the maker and the licensee verify on a form prescribed  
27 by the department that completion of the prior delayed deposit

1 transaction has occurred. The licensee shall retain written proof  
2 of compliance with this subdivision. If a licensee fails, or is  
3 unable, to provide such proof to the department upon request, there  
4 shall be a rebuttable presumption that a violation of this  
5 subdivision has occurred and the department may pursue any remedies  
6 or actions available to it under the act.

7 (2) For purposes of this section, (a) completion of a  
8 delayed deposit transaction means the licensee has presented a  
9 maker's check for payment to a financial institution as defined in  
10 section 8-101 or the maker redeemed the check by paying the full  
11 amount of the check in cash to the licensee and (b) licensee shall  
12 include (i) a person related to the licensee by common ownership or  
13 control, (ii) a person in whom such licensee has any financial  
14 interest of ten percent or more, or (iii) any employee or agent of  
15 the licensee.

16 Sec. 9. Section 45-922, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 45-922. (1) The director may, following a hearing in

19 accordance with the Administrative Procedure Act, suspend or revoke  
20 any license issued pursuant to the Delayed Deposit Services  
21 Licensing Act if he or she finds:

22 (a) A licensee or any of its officers, directors,  
23 partners, or members has knowingly violated the act or any rule,  
24 regulation, or order of the director thereunder;

25 (b) A fact or condition existing which, if it had existed  
26 at the time of the original application for such license, would  
27 have warranted the director to refuse to issue such license; ~~or~~

1 (c) A licensee has abandoned its place of business for a  
2 period of sixty days or more; or

3 (d) A licensee or any of its officers, directors,  
4 partners, or members has knowingly subscribed to, made, or caused  
5 to be made any false statement or false entry in the books and  
6 records of any licensee, has knowingly subscribed to or exhibited  
7 false papers with the intent to deceive the Department of Banking  
8 and Finance, has failed to make true and correct entry in the books  
9 and records of such licensee of its business and transactions in  
10 the manner and form prescribed by the department, or has mutilated,  
11 altered, destroyed, secreted, or removed any of the books or  
12 records of such licensee without the written approval of the  
13 department or as provided in section 45-925.

14 (2) Except as provided in this section, a license shall  
15 not be revoked or suspended except after notice and a hearing in  
16 accordance with the Administrative Procedure Act.

17 (3)(a) If a licensee fails to renew its license as  
18 required by section 45-910 and does not voluntarily surrender the  
19 license pursuant to section 45-911, the department may issue a  
20 notice of expiration of the license to the licensee in lieu of  
21 revocation proceedings.

22 (b) If a licensee fails to maintain a surety bond as  
23 required by section 45-906, the department may issue a notice of  
24 cancellation of the license in lieu of revocation proceedings.

25 (4) Revocation, suspension, cancellation, or expiration  
26 of a license shall not impair or affect the obligation of a  
27 preexisting lawful contract between the licensee and any person,  
1 including a maker of a check.

2 (5) Revocation, suspension, cancellation, or expiration  
3 of a license shall not affect civil or criminal liability for acts  
4 committed before the revocation, suspension, cancellation, or  
5 expiration.

6 Sec. 10. Section 45-925, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 45-925. (1) If the director finds, after notice and  
9 hearing in accordance with the Administrative Procedure Act, that  
10 any person has violated the Delayed Deposit Services Licensing Act  
11 or any rule, regulation, or order of the director thereunder, the  
12 director may order such person to pay (a) an administrative fine of  
13 not more than five thousand dollars for each separate violation and

14 (b) the costs of investigation.

15 (2) If any person is found to have violated subdivision  
16 (1)(e), (1)(f), or (1)(g) of section 45-919, the director may also  
17 order such person to (i) return to the maker or makers all fees  
18 collected plus all or part of the amount of the check or checks  
19 which the licensee accepted in violation of such subdivision or  
20 subdivisions and (ii) for a period up to one year not engage in any  
21 delayed deposit transaction with any maker for at least three days  
22 after the completion of a delayed deposit transaction with the same  
23 maker. If a person fails to pay an administrative fine and the  
24 costs of investigation ordered pursuant to subsection (1) of this  
25 section, a lien in the amount of such fine and costs may be imposed  
26 upon all assets and property of such person in this state and may  
27 be recovered in a civil action by the director. Failure of the  
1 person to pay such fine and costs shall constitute a separate  
2 violation of the act.

3 Sec. 11. (1) Each licensee shall keep or make available  
4 the books and records relating to transactions made under the  
5 Delayed Deposit Services Licensing Act as are necessary to enable  
6 the department to determine whether the licensee is complying with  
7 the act. The books and records shall be maintained in a manner  
8 consistent with accepted accounting practices.

9 (2) A licensee shall, at a minimum, include in its books  
10 and records, copies of all application materials relating to  
11 makers, disclosure agreements, checks, payment receipts, and  
12 verification receipts required by section 45-919.

13 (3) A licensee shall preserve or keep its books and  
14 records relating to every delayed deposit transaction for three  
15 years from the date of the inception of the transaction, or two  
16 years from the date a final entry is made thereon, including any  
17 applicable collection effort, whichever is later.

18 (4) The licensee shall maintain its books, accounts, and  
19 records, whether in physical or electronic form, at its designated  
20 principal place of business, except that books, accounts, and  
21 records which are older than two years may be maintained at any  
22 other place within this state as long as such records are available  
23 for inspection by the Department of Banking and Finance.

24 Sec. 12. Original sections 45-901, 45-906, 45-907,  
25 45-912, 45-915, 45-917, 45-919, 45-922, and 45-925, Reissue Revised  
26 Statutes of Nebraska, are repealed."

**LEGISLATIVE BILL 716.** Placed on General File as amended.

Standing Committee amendment to LB 716:

AM0671

- 1 1. On page 2, line 8, strike beginning with the first
- 2 comma through the second comma; and in line 9 strike beginning with
- 3 "at" through "annual".

(Signed) Mick Mines, Chairperson

### Transportation and Telecommunications

**LEGISLATIVE BILL 675.** Placed on General File as amended.

Standing Committee amendment to LB 675:

AM0631

- 1 1. On page 10, line 2, strike "or adjacent school
- 2 districts" and insert "in which he or she attends school".

(Signed) Tom Baker, Chairperson

### ANNOUNCEMENT

Senator Byars designates LB 206 as his priority bill.

### AMENDMENT - Print in Journal

Senator Smith filed the following amendment to LB 70:

AM0051

- 1 1. On page 2, line 28, strike the first "and" and after
- 2 the last comma insert "until January 1, 2007".
- 3 2. On page 3, line 3, after "Fund" insert ", and on and
- 4 after January 1, 2007, an amount equal to eight dollars times the
- 5 number of motorcycles registered during the previous month shall be
- 6 placed in the Motorcycle Safety and Training Fund".

### MOTIONS - Approve Appointments

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 652:

Rural Health Advisory Commission

Martin L. Fattig

Voting in the affirmative, 35:

Aguilar	Cudaback	Friend	Langemeier	Preister
Baker	Cunningham	Heidemann	Louden	Price
Bourne	Engel	Howard	McDonald	Raikes
Brashear	Erdman	Janssen	Mines	Schimek
Burling	Fischer	Jensen	Pahls	Stuhr
Byars	Flood	Johnson	Pedersen, Dw.	Synowiecki
Connealy	Foley	Kruse	Pederson, D.	Thompson

Voting in the negative, 0.

Present and not voting, 7:

Beutler	Combs	Landis	Smith
Chambers	Kopplin	Schrock	

Excused and not voting, 7:

Brown	Hudkins	Redfield	Wehrbein
Cornett	Kremer	Stuthman	

The appointment was confirmed with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

Senator Schimek moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 661:

Nebraska Accountability and Disclosure Commission  
Judy Schweikart

Voting in the affirmative, 32:

Aguilar	Cunningham	Howard	McDonald	Raikes
Baker	Engel	Janssen	Mines	Schimek
Bourne	Erdman	Jensen	Pahls	Schrock
Brashear	Fischer	Johnson	Pedersen, Dw.	Stuhr
Burling	Foley	Kopplin	Pederson, D.	
Combs	Friend	Landis	Preister	
Connealy	Heidemann	Langemeier	Price	

Voting in the negative, 0.

Present and not voting, 10:

Beutler	Chambers	Flood	Louden	Synowiecki
Byars	Cudaback	Kruse	Smith	Thompson

Excused and not voting, 7:

Brown	Hudkins	Redfield	Wehrbein
Cornett	Kremer	Stuthman	

The appointment was confirmed with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

## **BILLS ON FINAL READING**

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1 with 32 ayes, 2 nays, 9 present and not voting, and 6 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 1.**

FOR AN ACT relating to motor vehicles; to amend sections 60-484 to 60-484.02, 60-490, 60-4,115, 60-4,119, 60-4,120, 60-4,120.01, and 60-4,150, Reissue Revised Statutes of Nebraska; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to outright repeal section 60-1516, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Connealy	Heidemann	Louden	Schimek
Baker	Cudaback	Howard	McDonald	Schrock
Beutler	Cunningham	Janssen	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Brashear	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Brown	Fischer	Kopplin	Pederson, D.	Thompson
Burling	Flood	Kruse	Preister	
Byars	Foley	Landis	Price	
Combs	Friend	Langemeier	Raikes	

Voting in the negative, 0.

Present and not voting, 1:

Chambers

Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

### **LEGISLATIVE BILL 2.**

FOR AN ACT relating to health care facilities; to amend section 71-428, Revised Statutes Supplement, 2004; to correct an internal reference that includes outright repealed sections; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure

having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Connealy	Heidemann	Louden	Schimek
Baker	Cudaback	Howard	McDonald	Schrock
Beutler	Cunningham	Janssen	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Brashear	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Brown	Fischer	Kopplin	Pederson, D.	Thompson
Burling	Flood	Kruse	Preister	
Byars	Foley	Landis	Price	
Combs	Friend	Langemeier	Raikes	

Voting in the negative, 0.

Present and not voting, 1:

Chambers

Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### LEGISLATIVE BILL 3.

FOR AN ACT relating to recreational lands; to amend section 37-734, Reissue Revised Statutes of Nebraska; to eliminate an exception found unconstitutional and severable in Teters v. Scottsbluff Public Schools, 256 Neb. 645, 592 N.W.2d 155 (1999); and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Aguilar	Cudaback	Howard	McDonald	Schrock
Baker	Cunningham	Janssen	Mines	Smith
Beutler	Engel	Jensen	Pahls	Stuhr
Bourne	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Brashear	Fischer	Kopplin	Pederson, D.	Thompson
Burling	Flood	Kruse	Preister	
Byars	Foley	Landis	Price	
Combs	Friend	Langemeier	Raikes	
Connealy	Heidemann	Louden	Schimek	

Voting in the negative, 0.

Present and not voting, 2:

Brown                      Chambers

Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 11.**

A BILL FOR AN ACT relating to state government; to authorize use of electronic postmarks as prescribed.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Aguilar	Connealy	Heidemann	McDonald	Schrock
Baker	Cudaback	Howard	Mines	Smith
Beutler	Cunningham	Janssen	Pahls	Stuhr
Bourne	Engel	Johnson	Pedersen, Dw.	Synowiecki
Brashear	Erdman	Kopplin	Pederson, D.	Thompson
Brown	Fischer	Kruse	Preister	
Burling	Flood	Landis	Price	
Byars	Foley	Langemeier	Raikes	
Combs	Friend	Louden	Schimek	

Voting in the negative, 0.

Present and not voting, 2:

Chambers                      Jensen

Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 15 with 36 ayes, 2 nays, 5 present and not voting, and 6 excused and not voting.

The following bill was put upon final passage:

#### LEGISLATIVE BILL 15. With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 60-3005, 60-3006, 77-5018, 77-5019, 77-5026, and 77-5028, Reissue Revised Statutes of Nebraska, and sections 77-202.04, 77-1345.01, 77-1514, 77-5005, 77-5007, and 77-5016, Revised Statutes Supplement, 2004; to change procedures relating to valuation of property and changing taxable status of certain property; to change appeal procedures; to change deadlines as prescribed; to change and eliminate provisions relating to the Tax Equalization and Review Commission; to harmonize provisions; to repeal the original sections; to outright repeal section 77-5032, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 43:

Aguilar	Combs	Friend	Langemeier	Raikes
Baker	Connealy	Heidemann	Louden	Schimek
Beutler	Cudaback	Howard	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Burling	Fischer	Kopplin	Pederson, D.	Thompson
Byars	Flood	Kruse	Preister	
Chambers	Foley	Landis	Price	

Voting in the negative, 0.

Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 16.** With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2712.05, Revised Statutes Supplement, 2004; to change provisions relating to the streamlined sales and use tax agreement; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 43:

Aguilar	Combs	Friend	Langemeier	Raikes
Baker	Connealy	Heidemann	Louden	Schimek
Beutler	Cudaback	Howard	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Burling	Fischer	Kopplin	Pederson, D.	Thompson
Byars	Flood	Kruse	Preister	
Chambers	Foley	Landis	Price	

Voting in the negative, 0.

Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 17.**

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-3508, Reissue Revised Statutes of Nebraska; to change application procedures for homestead exemptions as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 42:

Aguilar	Connealy	Heidemann	Louden	Schimek
Baker	Cudaback	Howard	McDonald	Schrock
Beutler	Cunningham	Janssen	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Brashear	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Burling	Fischer	Kopplin	Pederson, D.	Thompson
Byars	Flood	Kruse	Preister	
Chambers	Foley	Landis	Price	
Combs	Friend	Langemeier	Raikes	

Voting in the negative, 0.

Present and not voting, 1:

Brown

Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 18.**

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1719.03, Reissue Revised Statutes of Nebraska; to change a provision relating to collection of delinquent property taxes; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Combs	Friend	Langemeier	Raikes
Baker	Connealy	Heidemann	Louden	Schimek
Beutler	Cudaback	Howard	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Burling	Fischer	Kopplin	Pederson, D.	Thompson
Byars	Flood	Kruse	Preister	
Chambers	Foley	Landis	Price	

Voting in the negative, 0.

Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 20.** With Emergency.

A BILL FOR AN ACT relating to swine; to amend section 37-524.01, Reissue Revised Statutes of Nebraska; to prohibit the release of swine for sport; to provide a penalty; to authorize destruction of feral swine; to define a term; to provide for applicability of provisions; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Aguilar	Combs	Friend	Louden	Schimek
Baker	Connealy	Heidemann	McDonald	Schrock
Beutler	Cudaback	Howard	Mines	Smith
Bourne	Cunningham	Janssen	Pahls	Stuhr
Brashear	Engel	Jensen	Pedersen, Dw.	Synowiecki
Brown	Erdman	Kopplin	Pederson, D.	Thompson
Burling	Fischer	Kruse	Preister	
Byars	Flood	Landis	Price	
Chambers	Foley	Langemeier	Raikes	

Voting in the negative, 0.

Present and not voting, 1:

Johnson

Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 21.** With Emergency.

A BILL FOR AN ACT relating to the State Boat Act; to amend section 37-1241.07, Reissue Revised Statutes of Nebraska; to eliminate a restriction

on and provide requirements for operation of leased watercraft as prescribed; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 43:

Aguilar	Combs	Friend	Langemeier	Raikes
Baker	Connealy	Heidemann	Louden	Schimek
Beutler	Cudaback	Howard	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Burling	Fischer	Kopplin	Pederson, D.	Thompson
Byars	Flood	Kruse	Preister	
Chambers	Foley	Landis	Price	

Voting in the negative, 0.

Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 33.**

A BILL FOR AN ACT relating to the Nebraska Litter Reduction and Recycling Act; to amend section 81-1566, Revised Statutes Supplement, 2004; to change a termination date; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 43:

Aguilar	Combs	Friend	Langemeier	Raikes
Baker	Connealy	Heidemann	Louden	Schimek
Beutler	Cudaback	Howard	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Burling	Fischer	Kopplin	Pederson, D.	Thompson
Byars	Flood	Kruse	Preister	
Chambers	Foley	Landis	Price	

Voting in the negative, 0.

Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 37.** With Emergency.

A BILL FOR AN ACT relating to the Nebraska Hall of Fame Commission; to amend sections 72-724 and 72-728, Reissue Revised Statutes of Nebraska; to change provisions involving appointments to the commission; to change and eliminate procedures for naming persons to the Nebraska Hall of Fame; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 40:

Aguilar	Conneally	Heidemann	Langemeier	Price
Baker	Cudaback	Howard	Louden	Raikes
Bourne	Cunningham	Janssen	McDonald	Schimek
Brashear	Engel	Jensen	Mines	Schrock
Burling	Fischer	Johnson	Pahls	Smith
Byars	Flood	Kopplin	Pedersen, Dw.	Stuhr
Chambers	Foley	Kruse	Pederson, D.	Synowiecki
Combs	Friend	Landis	Preister	Thompson

Voting in the negative, 1:

Brown

Present and not voting, 2:

Beutler	Erdman
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Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 51.**

A BILL FOR AN ACT relating to the Department of Agriculture; to amend section 81-201, Revised Statutes Supplement, 2004; to authorize laboratory testing services; to create a fund; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Combs	Friend	Langemeier	Raikes
Baker	Connealy	Heidemann	Louden	Schimek
Beutler	Cudaback	Howard	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Burling	Fischer	Kopplin	Pederson, D.	Thompson
Byars	Flood	Kruse	Preister	
Chambers	Foley	Landis	Price	

Voting in the negative, 0.

Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 52.**

A BILL FOR AN ACT relating to agriculture; to amend sections 75-903, 75-903.02, 75-905, and 89-1,105, Reissue Revised Statutes of Nebraska, and sections 88-528, 88-528.01, and 88-530.01, Revised Statutes Supplement, 2004; to change provisions relating to grain dealers, grain warehouses, and measuring devices; to provide operative dates; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Combs	Friend	Langemeier	Raikes
Baker	Conneally	Heidemann	Louden	Schimek
Beutler	Cudaback	Howard	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Burling	Fischer	Kopplin	Pederson, D.	Thompson
Byars	Flood	Kruse	Preister	
Chambers	Foley	Landis	Price	

Voting in the negative, 0.

Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 54 with 35 ayes, 4 nays, 4 present and not voting, and 6 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 54.** With Emergency.

A BILL FOR AN ACT relating to government service; to amend sections 12-104, 19-1830, 23-1309, 23-1310, 37-420, 48-225, 48-227, 48-229, 60-311.03, 60-311.04, 60-311.08, 60-3002, 71-605, 71-1002, 77-202.24, 77-3508, 77-3509, 77-3513, 77-3514, 80-102, 80-104 to 80-107, 80-316, 80-318, 80-325, 80-401.01, 80-401.03, 80-401.06, 80-410, and 80-412, Reissue Revised Statutes of Nebraska, and sections 12-1301 and 80-401.02, Revised Statutes Supplement, 2004; to redefine terms relating to veterans; to change provisions for a veteran hiring preference and qualifications for veterans' benefits; to reorganize provisions relating to veterans; to modify exemptions for veterans; to clarify eligibility for veterans' benefits; to eliminate a retraining program; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal section 81-1393, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 40:

Aguilar	Chambers	Friend	Langemeier	Price
Baker	Combs	Howard	Louden	Raikes
Beutler	Connealy	Janssen	McDonald	Schimek
Bourne	Cudaback	Jensen	Mines	Schrock
Brashear	Cunningham	Johnson	Pahls	Smith
Brown	Engel	Kopplin	Pedersen, Dw.	Stuhr
Burling	Erdman	Kruse	Pederson, D.	Synowiecki
Byars	Flood	Landis	Preister	Thompson

Voting in the negative, 0.

Present and not voting, 3:

Fischer	Foley	Heidemann
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Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

### **LEGISLATIVE BILL 176.**

A BILL FOR AN ACT relating to emergency medical services; to amend section 71-51,102, Reissue Revised Statutes of Nebraska; to change provisions relating to automated external defibrillator use; and to repeal the original section.

Senator Chambers requested a roll call vote.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Combs	Friend	Langemeier	Raikes
Baker	Connealy	Heidemann	Louden	Schimek
Beutler	Cudaback	Howard	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Burling	Fischer	Kopplin	Pederson, D.	Thompson
Byars	Flood	Kruse	Preister	
Chambers	Foley	Landis	Price	

Voting in the negative, 0.

Excused and not voting, 6:

Cornett	Kremer	Stuthman
Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

#### **WITHDRAW - Amendment to LB 169**

Senator Landis withdrew his pending amendment, AM0537, found on page 610, to LB 169.

#### **MOTION - Return LB 169 to Select File**

Senator Landis moved to return LB 169 to Select File for the following specific amendment:

AM0681

- 1 1. On page 2, lines 4 through 11, strike the new matter
- 2 and reinstate the stricken matter; and in line 16 after the period
- 3 insert "Cities of the primary class may also issue revenue bonds
- 4 for any public purpose in connection with or related to any such
- 5 revenue-producing facility.".

The Landis motion to return prevailed with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

#### **SELECT FILE**

**LEGISLATIVE BILL 169.** The Landis specific amendment, AM0681, found in this day's Journal, was adopted with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

Advanced to E & R for reengrossment.

**MOTION - Bracket LB 53**

Senator Foley offered the following motion to LB 53:  
Bracket until March 10, 2005.

**SPEAKER BRASHEAR PRESIDING**

Senator Foley withdrew his motion to bracket.

**BILL ON FINAL READING**

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 53.**

A BILL FOR AN ACT relating to voting rights; to amend sections 32-312, 32-313, and 32-1530, Reissue Revised Statutes of Nebraska, and sections 29-112, 29-113, 29-2264, and 83-1,118, Revised Statutes Supplement, 2004; to provide for the restoration of voting rights upon completion of a felony sentence or probation for a felony; to harmonize provisions; and to repeal the original sections.

Senator Smith requested a roll call vote.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 35:

Aguilar	Chambers	Howard	Langemeier	Price
Beutler	Combs	Janssen	McDonald	Raikes
Bourne	Connealy	Jensen	Mines	Schimek
Brashear	Cudaback	Johnson	Pahls	Schrock
Brown	Cunningham	Kopplin	Pedersen, Dw.	Stuhr
Burling	Flood	Kruse	Pederson, D.	Synowiecki
Byars	Heidemann	Landis	Preister	Thompson

Voting in the negative, 7:

Baker	Fischer	Friend	Smith
Erdman	Foley	Louden	

Excused and not voting, 7:

Cornett	Hudkins	Redfield	Wehrbein
Engel	Kremer	Stuthman	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 1, 2, 3, 11, 15, 16, 17, 18, 20, and 21.

**MOTION - Bracket LB 59**

Senator Chambers offered the following motion to LB 59:  
Bracket.

Senator Chambers withdrew his motion to bracket.

**BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 59.**

A BILL FOR AN ACT relating to economic development; to amend section 81-1298, Revised Statutes Supplement, 2004; to change a definition in the Microenterprise Development Act; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Aguilar	Combs	Howard	McDonald	Schrock
Baker	Cudaback	Janssen	Mines	Smith
Beutler	Cunningham	Jensen	Pahls	Stuhr
Bourne	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Brashear	Fischer	Kopplin	Pederson, D.	Thompson
Brown	Flood	Kruse	Preister	
Burling	Foley	Landis	Price	
Byars	Friend	Langemeier	Raikes	
Chambers	Heidemann	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 8:

Connealy	Engel	Kremer	Stuthman
Cornett	Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**SENATOR CUDABACK PRESIDING**

**LEGISLATIVE BILL 61.** With Emergency.

A BILL FOR AN ACT relating to adoption; to amend section 43-146.17, Reissue Revised Statutes of Nebraska; to change provisions relating to access to information; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 41:

Aguilar	Combs	Howard	McDonald	Schrock
Baker	Cudaback	Janssen	Mines	Smith
Beutler	Cunningham	Jensen	Pahls	Stuhr
Bourne	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Brashear	Fischer	Kopplin	Pederson, D.	Thompson
Brown	Flood	Kruse	Preister	
Burling	Foley	Landis	Price	
Byars	Friend	Langemeier	Raikes	
Chambers	Heidemann	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 8:

Connealy	Engel	Kremer	Stuthman
Cornett	Hudkins	Redfield	Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 80.**

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,187, Reissue Revised Statutes of Nebraska; to eliminate certain speed restrictions for school buses; to change provisions relating to lights on motor-driven cycles; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Aguilar	Chambers	Friend	Langemeier	Price
Baker	Combs	Heidemann	Louden	Raikes
Beutler	Cudaback	Howard	McDonald	Schimek
Bourne	Cunningham	Janssen	Mines	Schrock
Brashear	Erdman	Jensen	Pahls	Smith
Brown	Fischer	Johnson	Pedersen, Dw.	Stuhr
Burling	Flood	Kopplin	Pederson, D.	Synowiecki
Byars	Foley	Landis	Preister	Thompson

Voting in the negative, 0.

Present and not voting, 1:

Kruse

Excused and not voting, 8:

Connealy	Engel	Kremer	Stuthman
Cornett	Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 83.** With Emergency.

A BILL FOR AN ACT relating to motor carriers; to amend sections 75-363 and 75-364, Revised Statutes Supplement, 2004; to adopt updated federal Motor Carrier Safety Regulations and federal Hazardous Material Regulations; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 41:

Aguilar	Combs	Howard	McDonald	Schrock
Baker	Cudaback	Janssen	Mines	Smith
Beutler	Cunningham	Jensen	Pahls	Stuhr
Bourne	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Brashear	Fischer	Kopplin	Pederson, D.	Thompson
Brown	Flood	Kruse	Preister	
Burling	Foley	Landis	Price	
Byars	Friend	Langemeier	Raikes	
Chambers	Heidemann	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 8:

Connealy	Engel	Kremer	Stuthman
Cornett	Hudkins	Redfield	Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 88.**

A BILL FOR AN ACT relating to real estate; to amend section 76-2422, Reissue Revised Statutes of Nebraska; to change provisions relating to brokerage agreements; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Aguilar	Combs	Howard	McDonald	Schrock
Baker	Cudaback	Janssen	Mines	Smith
Beutler	Cunningham	Jensen	Pahls	Stuhr
Bourne	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Brashear	Fischer	Kopplin	Pederson, D.	Thompson
Brown	Flood	Kruse	Preister	
Burling	Foley	Landis	Price	
Byars	Friend	Langemeier	Raikes	
Chambers	Heidemann	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 8:

Connealy	Engel	Kremer	Stuthman
Cornett	Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 89.**

A BILL FOR AN ACT relating to dentists; to amend section 71-183.01, Reissue Revised Statutes of Nebraska; to provide an exemption from licensure requirements; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Aguilar	Chambers	Friend	Landis	Price
Baker	Combs	Heidemann	Langemeier	Raikes
Beutler	Cudaback	Howard	Louden	Schimek
Bourne	Cunningham	Janssen	McDonald	Schrock
Brashear	Erdman	Jensen	Pahls	Smith
Brown	Fischer	Johnson	Pedersen, Dw.	Stuhr
Burling	Flood	Kopplin	Pederson, D.	Synowiecki
Byars	Foley	Kruse	Preister	Thompson

Voting in the negative, 0.

Excused and not voting, 9:

Connealy	Engel	Kremer	Redfield	Wehrbein
Cornett	Hudkins	Mines	Stuthman	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 118.**

A BILL FOR AN ACT relating to the Equipment Business Regulation Act; to amend section 87-705, Reissue Revised Statutes of Nebraska; to provide requirements relating to approval of sales and transfers of dealerships; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Aguilar	Chambers	Friend	Landis	Price
Baker	Combs	Heidemann	Langemeier	Raikes
Beutler	Cudaback	Howard	Louden	Schimek
Bourne	Cunningham	Janssen	McDonald	Schrock
Brashear	Erdman	Jensen	Pahls	Smith
Brown	Fischer	Johnson	Pedersen, Dw.	Stuhr
Burling	Flood	Kopplin	Pederson, D.	Synowiecki
Byars	Foley	Kruse	Preister	Thompson

Voting in the negative, 0.

Excused and not voting, 9:

Connealy	Engel	Kremer	Redfield	Wehrbein
Cornett	Hudkins	Mines	Stuthman	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 119 with 31 ayes, 7 nays, 2 present and not voting, and 9 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 119.**

A BILL FOR AN ACT relating to insurance; to amend sections 12-1108, 12-1110, 12-1115, 12-1116, 44-401, 44-402.01, 44-409, 44-417, 44-797, 44-2131, 44-2132, 44-4814, 44-5103, 44-5109, 44-5143, 44-5144, 44-5149, 44-5153, 44-5154, 44-5505, 44-5508, 44-6122, 44-6125, 44-7506, 44-7508.01 to 44-7509, 44-7511, and 48-146.01, Reissue Revised Statutes of Nebraska; to change provisions of the Burial Pre-Need Sale Act; to change provisions relating to insurance reserves and coverage of breast reconstruction; to change a registration date; to change provisions relating to rehabilitation and investments; to change record requirements; to change provisions relating to the Mutual Insurance Holding Company Act; to change provisions relating to filings of rating systems and prospective loss costs; to adopt the Property and Casualty Actuarial Opinion Act and the Interstate Insurance Product Regulation Compact; to provide and eliminate requirements relating to reinsurance and qualified United States financial institutions; to provide powers for the Director of Insurance; to provide requirements for mandatory coverage and services; to provide for rules and regulations; to harmonize provisions; to repeal the original sections; and to outright repeal sections 44-416, 44-416.01, 44-416.03, and 44-416.04, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Aguilar	Chambers	Friend	Landis	Price
Baker	Combs	Heidemann	Langemeier	Raikes
Beutler	Cudaback	Howard	Louden	Schimek
Bourne	Cunningham	Janssen	McDonald	Schrock
Brashear	Erdman	Jensen	Pahls	Smith
Brown	Fischer	Johnson	Pedersen, Dw.	Stuhr
Burling	Flood	Kopplin	Pederson, D.	Synowiecki
Byars	Foley	Kruse	Preister	Thompsonson

Voting in the negative, 0.

Excused and not voting, 9:

Connealy	Engel	Kremer	Redfield	Wehrbein
Cornett	Hudkins	Mines	Stuthman	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 162 with 30 ayes, 5 nays, 6 present and not voting, and 8 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 162.**

A BILL FOR AN ACT relating to the Game Law; to amend sections 37-201, 37-407, 37-411, 37-415, 37-416, 37-420, 37-421, 37-426, 37-427, 37-428, 37-429, 37-431, 37-432, 37-438, 37-447, 37-450, 37-452, 37-457, and 37-538, Reissue Revised Statutes of Nebraska; to change provisions relating to hunting and fishing permits, fees, habitat stamps, and temporary park entry permits; to provide for Nebraska migratory waterfowl stamps, lifetime aquatic habitat stamps, and auction or lottery permits as prescribed; to change a penalty; to harmonize provisions; to provide operative dates; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Aguilar	Chambers	Heidemann	Louden	Raikes
Baker	Combs	Howard	McDonald	Schimek
Beutler	Cudaback	Janssen	Mines	Schrock
Bourne	Erdman	Jensen	Pahls	Stuhr
Brashear	Fischer	Johnson	Pedersen, Dw.	Synowiecki
Brown	Flood	Kopplin	Pederson, D.	Thompson
Burling	Foley	Kruse	Preister	
Byars	Friend	Landis	Price	

Voting in the negative, 2:

Langemeier     Smith

Present and not voting, 1:

Cunningham

Excused and not voting, 8:

Connealy	Engel	Kremer	Stuthman
Cornett	Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

### **LEGISLATIVE BILL 175.**

A BILL FOR AN ACT relating to physician assistants; to amend section 71-1,107.30, Reissue Revised Statutes of Nebraska; to change provisions relating to the authority to prescribe drugs and devices; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Aguilar	Combs	Howard	McDonald	Schrock
Baker	Cudaback	Janssen	Mines	Smith
Beutler	Cunningham	Jensen	Pahls	Stuhr
Bourne	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Brashear	Fischer	Kopplin	Pederson, D.	Thompson
Brown	Flood	Kruse	Preister	
Burling	Foley	Landis	Price	
Byars	Friend	Langemeier	Raikes	
Chambers	Heidemann	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 8:

Connealy	Engel	Kremer	Stuthman
Cornett	Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 216 with 34 ayes, 5 nays, 2 present and not voting, and 8 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 216.**

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 21-2612, 77-1784, 77-2115, 77-2701.27, 77-2704.25, 77-2708, 77-2711, 77-2716, 77-2727, 77-2734.01, 77-2753, 77-2756, 77-2775, 77-2776, 77-27,119, and 77-27,127, Reissue Revised Statutes of Nebraska, and sections 77-2701.16, 77-2704.12, 77-2786, and 85-1808, Revised Statutes Supplement, 2004; to change provisions relating to limited liability companies, electronic filing, confidentiality, definitions, sales and use tax, and income tax; to harmonize provisions; to provide operative dates; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Aguilar	Combs	Howard	McDonald	Schrock
Baker	Cudaback	Janssen	Mines	Smith
Beutler	Cunningham	Jensen	Pahls	Stuhr
Bourne	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Brashear	Fischer	Kopplin	Pederson, D.	Thompson
Brown	Flood	Kruse	Preister	
Burling	Foley	Landis	Price	
Byars	Friend	Langemeier	Raikes	
Chambers	Heidemann	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 8:

Connealy	Engel	Kremer	Stuthman
Cornett	Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 261.**

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-1338, 77-1355, 77-5024.01, and 77-5028, Reissue Revised Statutes of Nebraska, and sections 13-509, 77-1315, 77-1315.01, 77-1344, 77-1514, and 77-5007, Revised Statutes Supplement, 2004; to eliminate agricultural and horticultural land valuation boards and land manual areas; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 77-1378, 77-1379, 77-1381 to 77-1383, 77-5024, and 77-5025, Reissue Revised Statutes of Nebraska, and sections 77-1380

and 77-1384, Revised Statutes Supplement, 2004.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 33:

Aguilar	Byars	Howard	Mines	Schimek
Baker	Chambers	Janssen	Pahls	Schrock
Beutler	Combs	Jensen	Pedersen, Dw.	Stuhr
Bourne	Cunningham	Johnson	Pederson, D.	Synowiecki
Brashear	Erdman	Kopplin	Preister	Thompson
Brown	Foley	Kruse	Price	
Burling	Friend	Landis	Raikes	

Voting in the negative, 5:

Fischer	Langemeier	Louden	McDonald	Smith
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Present and not voting, 3:

Cudaback	Flood	Heidemann
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Excused and not voting, 8:

Connealy	Engel	Kremer	Stuthman
Cornett	Hudkins	Redfield	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 263 with 35 ayes, 2 nays, 4 present and not voting, and 8 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 263. With Emergency.**

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-101, 77-202.02, 77-202.12, 77-1311, 77-1331, 77-1347, 77-1504, and 77-1507, Reissue Revised Statutes of Nebraska, and sections 23-125, 77-1303, 77-1345.01, 77-5027, and 79-1016, Revised Statutes Supplement, 2004; to define a term; to change provisions relating to property taxes and property valuation for state aid to schools; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 41:

Aguilar	Combs	Howard	McDonald	Schrock
Baker	Cudaback	Janssen	Mines	Smith
Beutler	Cunningham	Jensen	Pahls	Stuhr
Bourne	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Brashear	Fischer	Kopplin	Pederson, D.	Thompson
Brown	Flood	Kruse	Preister	
Burling	Foley	Landis	Price	
Byars	Friend	Langemeier	Raikes	
Chambers	Heidemann	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 8:

Connealy	Engel	Kremer	Stuthman
Cornett	Hudkins	Redfield	Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

### **LEGISLATIVE BILL 283.**

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-1504, 77-1507, and 77-1613.04, Reissue Revised Statutes of Nebraska, and sections 77-1315.01, 77-1502, 77-1504.01, and 77-1510, Revised Statutes Supplement, 2004; to change provisions relating to property equalization timeframes; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 40:

Aguilar	Combs	Heidemann	Langemeier	Price
Baker	Cudaback	Howard	Louden	Raikes
Beutler	Cunningham	Janssen	McDonald	Schimek
Bourne	Erdman	Jensen	Mines	Schrock
Brashear	Fischer	Johnson	Pahls	Smith
Brown	Flood	Kopplin	Pedersen, Dw.	Stuhr
Burling	Foley	Kruse	Pederson, D.	Synowiecki
Byars	Friend	Landis	Preister	Thompson

Voting in the negative, 0.

Excused and not voting, 9:

Chambers	Cornett	Hudkins	Redfield	Wehrbein
Connealy	Engel	Kremer	Stuthman	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 301 with 32 ayes, 2 nays, 6 present and not voting, and 9 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 301. With Emergency.**

A BILL FOR AN ACT relating to public health and welfare; to amend sections 68-156, 68-1017.02, 68-1020 to 68-1021.01, 68-1037, 68-1048, 68-1604, 71-147, 71-1,104.01, 71-501.02, 71-503.01, 71-505, 71-519 to 71-523, 71-529, 71-601, 71-601.01, 71-605, 71-613, 71-640.01, 71-642, 71-649, 71-701, 71-703, 71-705 to 71-707, 71-1628.05 to 71-1628.07, 71-1913.01 to 71-1913.03, 71-2081, 71-3503, 71-3524, 71-4737 to 71-4744, 71-5647, 71-5649, 71-5655, 71-5714, 71-7617 to 71-7622, 79-217 to 79-219, 81-656, and 81-6,101, Reissue Revised Statutes of Nebraska, and sections 71-1,155, 71-5653, 81-3004, 81-3102, and 81-3202, Revised Statutes Supplement, 2004; to change and eliminate provisions relating to reports, food stamp and medical assistance benefits, homeless shelter assistance, death certificates, newborn screening tests, and temporary veterinarian licenses; to transfer responsibility for the immunodeficiency syndrome program, disease prevention and immunization programs, the Women's Health Initiative of Nebraska, state public health personnel, the Infant Hearing Act, the Office of Rural Health, the tobacco-related public health program, and the Native American public health program; to name the Vital Statistics Act; to change and provide penalties; to redefine transuranic waste; to eliminate obsolete provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 68-1064, 68-1716, and 71-1,161, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 39:

Aguilar	Combs	Heidemann	Langemeier	Raikes
Baker	Cudaback	Howard	Louden	Schimek
Beutler	Cunningham	Janssen	McDonald	Schrock
Bourne	Erdman	Jensen	Mines	Smith
Brashear	Fischer	Johnson	Pahls	Stuhr
Brown	Flood	Kopplin	Pederson, D.	Synowiecki
Burling	Foley	Kruse	Preister	Thompson
Byars	Friend	Landis	Price	

Voting in the negative, 0.

Present and not voting, 1:

Pedersen, Dw.

Excused and not voting, 9:

Chambers	Cornett	Hudkins	Redfield	Wehrbein
Connealy	Engel	Kremer	Stuthman	

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **SPEAKER BRASHEAR PRESIDING**

The following bills were read and put upon final passage:

### **LEGISLATIVE BILL 329.**

A BILL FOR AN ACT relating to retirement; to amend sections 79-514 and 79-902, Reissue Revised Statutes of Nebraska; to authorize certain contributions related to school plans; to redefine a term; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 33:

Aguilar	Cudaback	Heidemann	McDonald	Schimek
Baker	Cunningham	Howard	Mines	Schrock
Brashear	Erdman	Jensen	Pahls	Smith
Brown	Fischer	Johnson	Pederson, D.	Stuhr
Burling	Flood	Kopplin	Preister	Synowiecki
Byars	Foley	Kruse	Price	
Combs	Friend	Langemeier	Raikes	

Voting in the negative, 1:

Louden

Present and not voting, 4:

Beutler	Bourne	Landis	Pedersen, Dw.
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Excused and not voting, 11:

Chambers	Engel	Kremer	Thompson
Connealy	Hudkins	Redfield	Wehrbein
Cornett	Janssen	Stuthman	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 383.** With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 49-801.01, Reissue Revised Statutes of Nebraska; to change a provision relating to references to the Internal Revenue Code; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 34:

Aguilar	Combs	Friend	Langemeier	Price
Baker	Cudaback	Heidemann	Louden	Raikes
Beutler	Cunningham	Howard	McDonald	Schimek
Brashear	Erdman	Jensen	Mines	Schrock
Brown	Fischer	Johnson	Pahls	Smith
Burling	Flood	Kopplin	Pederson, D.	Stuhr
Byars	Foley	Kruse	Preister	

Voting in the negative, 0.

Present and not voting, 3:

Bourne	Landis	Pedersen, Dw.
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Excused and not voting, 12:

Chambers	Engel	Kremer	Synowiecki
Connealy	Hudkins	Redfield	Thompson
Cornett	Janssen	Stuthman	Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 33, 37, 51, 52, 54, 176, 53, 59, 61, 80, 83, 88, 89, 118, 119, 162, 175, 216, 261, 263, 283, 301, 329, and 383.

### STANDING COMMITTEE REPORTS

#### Judiciary

**LEGISLATIVE BILL 206.** Placed on General File as amended.

Standing Committee amendment to LB 206:

AM0633

- 1 1. Strike original sections 28 and 33 and insert the
- 2 following new sections:
- 3 "Sec. 28. (1) If at any time it appears that the subject
- 4 no longer poses a threat of harm to others, any party may file a
- 5 motion for a review hearing to be held as soon as practicable. The
- 6 party filing the motion under this subsection shall have the burden
- 7 of showing by a preponderance of the evidence that the subject no
- 8 longer poses a threat of harm to others. If it is shown that the
- 9 subject no longer poses a threat of harm to others, the court shall
- 10 enter an order dismissing the case and immediately release the
- 11 subject.
- 12 (2) If at any time it appears that (a) the plan submitted
- 13 under section 24 or 27 of this act is not sufficient to protect
- 14 society or the subject or (b) the circumstances upon which the plan
- 15 was based have changed significantly, any party may file a motion,
- 16 to be granted for good cause shown, for a review hearing to be held
- 17 as soon as practicable. The party filing the motion under this
- 18 subsection shall have the burden of showing by clear and convincing
- 19 evidence that the court-ordered custody and treatment of the
- 20 subject should be modified or vacated.
- 21 Sec. 33. No treatment program or employee of a treatment
- 22 program shall be liable for acts taken in good faith to comply with
- 23 the Developmental Disabilities Court-Ordered Custody Act, except
- 24 for gross negligence, recklessness, or willful or wanton acts.
- 1 This section does not apply to any action for (1) damage or injury
- 2 caused during operation of any motor vehicle, airplane, or boat or
- 3 (2) damage or injury caused by an employee of a treatment program
- 4 while such employee is impaired by alcohol or any controlled
- 5 substance enumerated in section 28-405.
- 6 Sec. 35. The department in collaboration with the
- 7 Advisory Committee on Developmental Disabilities established under
- 8 section 83-1212.01 shall submit quarterly reports to the court, all
- 9 parties of record, and the guardian of any subject in court-ordered
- 10 custody.

11 The department shall submit an annual report to the  
12 Legislature regarding the implementation of the Developmental  
13 Disabilities Court-Ordered Custody Act. Such reports shall not  
14 contain any name, address, or other identifying factors or other  
15 confidential information regarding any subject.  
16 Sec. 36. Section 83-1212.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:  
18 83-1212.01. (1) There is hereby created the Advisory  
19 Committee on Developmental Disabilities. The advisory committee  
20 shall consist of a representative of a statewide advocacy  
21 organization for persons with developmental disabilities and their  
22 families and not more than fifteen additional members, at - At  
23 least one-third of the membership whom shall be persons with  
24 developmental disabilities, at least one-third of the membership  
25 whom shall be families of persons with developmental disabilities,  
26 and no more than one-third of the membership whom shall be elected  
27 officials or interested community persons.

1 (2) The members shall be appointed by the Governor for  
2 staggered terms of three years. Any vacancy shall be filled by the  
3 Governor for the remainder of the term. One of the members shall  
4 be designated as chairperson by the Governor. Members shall be  
5 reimbursed for their actual and necessary expenses as provided in  
6 sections 81-1174 to 81-1177.

7 (3) The advisory committee shall advise the department  
8 regarding all aspects of the funding and delivery of services to  
9 persons with developmental disabilities.

10 (4) The advisory committee shall provide sufficient  
11 oversight to ensure that persons placed in the custody of the  
12 department under the Developmental Disabilities Court-Ordered  
13 Custody Act are receiving the least restrictive treatment and  
14 services necessary.

15 Sec. 37. Original section 83-1212.01, Reissue Revised  
16 Statutes of Nebraska, is repealed."

17 2. On page 3, line 23, after "others" insert "in the  
18 least restrictive alternative".

19 3. On page 4, line 8, strike "or"; and in line 9 strike  
20 "deliberately set a fire" and insert "set or attempted to set fire  
21 to another person or to any property of another without the owner's  
22 consent; or, by the use of an explosive, damaged or destroyed  
23 property, put another person at risk of harm, or injured another  
24 person".

25 4. On page 7, line 6, after "disabilities" insert "and  
26 poses a threat of harm to others".

27 5. On page 9, line 12, after "alternative" insert  
1 "within thirty days and provide a copy to all parties in interest";  
2 and in line 13 after "hearing" insert "within fifteen days after  
3 receipt of the department's plan, unless continued for good cause  
4 shown".

5 6. On page 10, line 19, strike "department" and insert

6 "state".

7 7. Insert underscoring in and renumber the remaining  
8 sections accordingly.

(Signed) Patrick J. Bourne, Chairperson

**Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 684.** Placed on General File.

**LEGISLATIVE BILL 187.** Placed on General File as amended.

Standing Committee amendment to LB 187:

AM0640

1 1. On page 3, strike beginning with "This" in line 11  
2 through "duties" in line 14, show as stricken, and insert "Nothing  
3 in this section prohibits a public official from campaigning for or  
4 against the qualification, passage, or defeat of a ballot question  
5 or the nomination or election of a candidate when no public  
6 resources are used.  
7 (8) Nothing in this section prohibits a public employee  
8 from campaigning for or against the qualification, passage, or  
9 defeat of a ballot question or the nomination or election of a  
10 candidate when no public resources are used. Except as otherwise  
11 provided in this section, a public employee shall not engage in  
12 campaign activity for or against the qualification, passage, or  
13 defeat of a ballot question or the nomination or election of a  
14 candidate while on government work time or when otherwise engaged  
15 in his or her official duties."; and in line 15, strike "(8)" and  
16 insert "(9)".

**LEGISLATIVE BILL 761.** Placed on General File as amended.

Standing Committee amendment to LB 761:

AM0659

1 1. On page 2, strike beginning with "fifteen" in line 24  
2 through "Fourteen" in line 26 and insert "eleven".  
3 2. On page 3, line 6, strike "one county attorney";  
4 strike beginning with the last "one" in line 7 through the  
5 semicolon in line 8; strike lines 9 through 12 and insert "center  
6 coordinator; one director of a court appointed special advocate  
7 program; and one member of the public who has a background in  
8 business or finance."; strike beginning with "subdivision" in line  
9 13 through "section" in line 14 and insert "this subdivision";  
10 strike beginning with "subdivision" in line 24 through "section" in  
11 line 25 and insert "this subdivision"; and in line 25 after the  
12 period insert "The members of the board shall, to the extent  
13 possible, represent the three congressional districts equally.".

(Signed) DiAnna R. Schimek, Chairperson

**General Affairs**

**LEGISLATIVE BILL 107.** Placed on General File as amended.

Standing Committee amendment to LB 107:

AM0678

- 1 1. On page 2, line 18; page 3, line 6; page 4, lines 1
- 2 and 5; and page 5, line 11, strike "ten" and insert "six".

**LEGISLATIVE BILL 668.** Placed on General File as amended.

Standing Committee amendment to LB 668:

AM0684

- 1 1. Strike beginning on page 2, line 7, through page 4,
- 2 line 8, and insert:
- 3 "A tract of land being part of Government Lot 1, part of
- 4 Government Lot 2, part of Government Lot 3, part of Government Lot
- 5 4, part of the South half of the Northwest Quarter, part of the
- 6 Northwest Quarter of the Southwest Quarter, part of the South half
- 7 of the Northeast Quarter and part of the North half of the
- 8 Southeast Quarter of Section 4, Township 8 North, Range 16 West of
- 9 the 6th P.M., Buffalo County, Nebraska, all more particularly
- 10 described as follows: Referring to the Southeast Corner of the
- 11 Northeast Quarter of said Section 4 and assuming the South line of
- 12 said Northeast Quarter as bearing N 89' 59' 10" W and all bearings
- 13 contained herein are relative thereto; thence N 89' 59' 10" W and
- 14 on the South line of the Northeast Quarter of said section a
- 15 distance of 660.0 feet to the ACTUAL PLACE OF BEGINNING; thence S
- 16 01' 37' 34" W a distance of 18.65 feet to a point on the North
- 17 property line of an existing road; thence N 89' 29' 57" W and on
- 18 the aforesaid North property line a distance of 3372.3 feet to the
- 19 point of curvature; thence on a 1332.72 foot radius curve to the
- 20 left forming a central angle of 13' 10' a distance of 306.26 feet
- 21 to the point of tangency; thence tangent S 77' 20' 03" W a distance
- 22 of 224.85 feet to the point of curvature; thence on a 687.31 foot
- 23 radius curve to the right forming a central angle of 07' 31' 16" a
- 24 distance of 90.32 feet; thence leaving said curve N 01' 39' E a
- 1 distance of 85.39 feet to a point on the South line of the
- 2 Northwest Quarter of said Section 4; thence N 01' 31' 22" E a
- 3 distance of 310.2 feet to the Northeast corner of a tract of land
- 4 known as Reservation No. 2 as located in State Application Resurvey
- 5 No. 154 and filed in the Buffalo County Surveyors Office; thence N
- 6 89' 57' 11" W and on the North line of said Reservation No. 2 tract
- 7 a distance of 243.86 feet; thence N 01' 43' 30" W a distance of
- 8 1501.2 feet; thence S 85' 38' E a distance of 681.66 feet to the
- 9 Southeast corner of a tract of land known as Reservation No. 1,
- 10 thence N 21' 02' W and on the easterly line of said Reservation No.
- 11 1 a distance of 535.07 feet; thence S 80' 22' 31" E a distance of
- 12 365.02 feet; thence S 86' 03' 12" E a distance of 351.11 feet;
- 13 thence N 86' 44' 38" E a distance of 359.33 feet; thence N 79' 19'
- 14 21" E a distance of 443.41 feet; thence N 77' 14' 05" E a distance

15 of 660.05 feet; thence N 83° 05' E a distance of 195.54 feet;  
 16 thence N 89° 51' 32" E a distance of 1503.54 feet to a point, said  
 17 point being 660.0 feet West of the East line of said Section 4;  
 18 thence S 01° 37' 34" W a distance of 2450.53 feet to the place of  
 19 beginning. Containing 221.3 acres, more or less.  
 20 A tract of land being part of the North half of the South  
 21 half of Section 4, Township 8 North, Range 16 West of the 6th P.M.,  
 22 Buffalo County, Nebraska, more particularly described as follows:  
 23 Referring to the Northeast corner of the Southeast Quarter of  
 24 Section 4 and assuming the North line of said Southeast Quarter as  
 25 bearing N 89° 59' 10" W and all bearings contained herein are  
 26 relative thereto; thence N 89° 59' 10" W and on the North line of  
 27 said Southeast Quarter a distance of 660.0 feet; thence S 01° 37'  
 1 34" W a distance of 84.67 feet to the ACTUAL PLACE OF BEGINNING,  
 2 said place of beginning being on the South property line of an  
 3 existing road; thence N 89° 29' 57" W and on the aforesaid South  
 4 property line a distance of 3369.9 feet to the point of curvature;  
 5 thence on a 1266.72 foot radius curve to the left forming a central  
 6 angle of 13° 10' a distance of 291.1 feet to the point of tangency;  
 7 thence tangent S 77° 20' 03" W a distance of 224.85 feet to the  
 8 point of curvature; thence on a 753.31 foot radius curve to the  
 9 right forming a central angle of 12° 40' 30" a distance of 166.65  
 10 feet to the point of tangency; thence tangent N 89° 59' 27" W a  
 11 distance of 126.4 feet to the point of curvature; thence on a  
 12 1673.61 foot radius curve to the right forming a central angle of  
 13 05° 35' a distance of 163.09 feet to the point of tangency; thence  
 14 tangent N 84° 24' 27" W a distance of 158.4 feet to the point of  
 15 curvature; thence on a 1232.18 foot radius curve to the right  
 16 forming a central angle of 06° 21' 40" a distance of 136.8 feet to  
 17 the point of intersection of the West line of the Southwest Quarter  
 18 of said Section 4; thence leaving said curve S 01° 41' W and on the  
 19 West line of said Southwest Quarter a distance of 501.45 feet to a  
 20 point on the North property line of the Union Pacific Railroad;  
 21 thence N 85° 39' 06" E and on the aforesaid North property line a  
 22 distance of 188.78 feet to the point of curvature; thence on a  
 23 11017.1 foot radius curve to the left forming a central angle of  
 24 01° 29' a distance of 285.22 feet to the point of tangency; thence  
 25 tangent N 84° 10' 06" E a distance of 4185.03 feet to a point, said  
 26 point being 660.0 feet West of the East line of said Section 4;  
 27 thence N 01° 37' 34" E a distance of 61.84 feet to the place of  
 1 beginning. Containing 31.8 acres, more or less, of which 0.4  
 2 acres, more or less, are presently being used for road purposes on  
 3 the West side."  
 4 2. On page 4, line 12, before "revenue" insert "net".

**LEGISLATIVE BILL 745.** Placed on General File as amended.  
 Standing Committee amendment to LB 745:  
 AM0679

1 1. On page 2, line 27, after "horseraces" insert "that

2 allows total wagers no higher than ten dollars per play and  
 3 requires the full horserace to be replayed at regular speed before  
 4 wagering may be placed on another horserace".

(Signed) Ray Janssen, Chairperson

## SELECT COMMITTEE REPORTS

### Enrollment and Review

**LEGISLATIVE BILL 264.** Placed on Select File as amended.

E & R amendment to LB 264:

AM7035

1 1. In the Standing Committee amendments, AM0499:  
 2 a. On page 2, line 24, strike "and"; and  
 3 b. On page 3, line 27, after "sections" insert  
 4 "68-1202," and after "68-1207" insert a comma.  
 5 2. On page 1, strike beginning with "children" in line 1  
 6 through line 2 and insert "social services; to amend sections  
 7 68-1202, 68-1207, and 68-1207.01, Reissue Revised Statutes of  
 8 Nebraska; to provide for secondary prevention services; to provide  
 9 duties for the Director of Health and Human Services relating to  
 10 caseloads; to change provisions relating to reports; and to repeal  
 11 the original sections."

**LEGISLATIVE BILL 546.** Placed on Select File as amended.

E & R amendment to LB 546:

AM7030

1 1. Strike the original sections and all amendments  
 2 thereto and insert the following new sections:  
 3 "Section 1. This act shall be known and may be cited as  
 4 the Nebraska Opportunity Zone Act.  
 5 Sec. 2. The Legislature finds and declares that the area  
 6 adjacent to the Interstate 80 corridor running through the entire  
 7 length of Nebraska affords an excellent opportunity for business  
 8 expansion, economic development, job creation, and  
 9 education-business partnerships. The Legislature further declares  
 10 that this opportunity is best realized through regional cooperation  
 11 in which the communities, businesses, and educational entities in  
 12 the corridor work together to pursue common goals within  
 13 opportunity zones. The Department of Economic Development is  
 14 encouraged to work with interested parties within the corridor to  
 15 create opportunity zones similar to the one established in section  
 16 7 of this act.  
 17 Sec. 3. An opportunity zone commission shall advocate  
 18 and recommend programs that encourage regional cooperation and  
 19 foster community sustainability and economic development  
 20 initiatives. The chairperson and vice-chairperson of a commission  
 21 shall supervise the hiring of the executive director using the  
 22 state personnel hiring process. The Department of Economic

23 Development shall provide administrative and technical support to a  
24 commission. A commission may secure cooperation and assistance of  
1 and funding from other appropriate government and private-sector  
2 entities.

3 Sec. 4. An opportunity zone commission shall:

4 (1) Focus attention on and increase awareness of the  
5 opportunities and needs in a particular region of Nebraska,  
6 referred to as the opportunity zone;

7 (2) Advocate by proposing solutions to challenges faced  
8 in the opportunity zone;

9 (3) Encourage and support continuity, coordination, and  
10 cooperation among national, state, multicommunity, and local  
11 economic development initiatives and service providers in the  
12 opportunity zone;

13 (4) Serve as an advisory body to the Governor, state  
14 agencies, and the Legislature on economic development issues in the  
15 opportunity zone;

16 (5) Establish an information clearinghouse on challenges  
17 and needs, development services, model initiatives, available  
18 resources, and service providers;

19 (6) Foster multicommunity partnerships;

20 (7) Foster regional marketing activities to promote the  
21 opportunity zone;

22 (8) Study and develop recommendations for uniform county  
23 zoning within the opportunity zone; and

24 (9) Accept contributions from member entities to fund the  
25 activities of the commission.

26 Sec. 5. An opportunity zone commission may:

27 (1) Appoint nonvoting members, obtain advisors, create  
1 task forces composed of noncommission members, or engage in other  
2 appropriate activities necessary in completing the commission's  
3 duties;

4 (2) Issue reports, recommendations, or other  
5 communications as deemed necessary by a majority of voting members  
6 of the commission;

7 (3) Adopt operating procedures and guidelines; and

8 (4) Engage in other activities relevant and appropriate  
9 to its purpose, duties, and powers.

10 In addition, the commission may receive or apply for and  
11 receive gifts, grants, contributions, and other funds from the  
12 federal government, private agencies, affiliated associations, and  
13 individuals and contract with public and private groups to conduct  
14 its business.

15 Sec. 6. On or before February 15 of each year, the  
16 executive director of an opportunity zone commission shall transmit  
17 to the Governor and the Clerk of the Legislature an annual report  
18 which includes a summary of the commission's activities,  
19 recommendations for future economic development action in the  
20 opportunity zone, and an accounting of the source and use of funds

21 disbursed during the previous fiscal year.

22 Sec. 7. (1) The Legislature finds an opportunity exists  
23 to develop high technology business between the Omaha and Lincoln  
24 business communities, the university system of the State of  
25 Nebraska, including the University of Nebraska-Lincoln, the  
26 University of Nebraska at Omaha, and the University of Nebraska  
27 Medical Center, and Sarpy County, including Offutt Air Force Base.

1 The Legislature further finds that the cities of Lincoln and Omaha  
2 are moving toward designation as a single metropolitan statistical  
3 area for census purposes, possibly by the federal decennial census.  
4 Therefor, an opportunity zone commission should be established for  
5 eastern Nebraska.

6 (2) The Nebraska Innovation Zone Commission is created.  
7 The commission shall consist of the following members:

8 (a) Three members appointed by the county board of  
9 Douglas County;

10 (b) Two members appointed by the county board of Sarpy  
11 County;

12 (c) Two members appointed by the county board of  
13 Lancaster County;

14 (d) One member appointed by the county board of Cass  
15 County;

16 (e) One member appointed by the county board of Saunders  
17 County;

18 (f) One member appointed by the city council of Omaha;

19 (g) One member appointed by the city council of Lincoln;

20 (h) One member representing cities of the first class  
21 within Douglas, Sarpy, Lancaster, Cass, and Saunders counties  
22 appointed by the other members of the commission;

23 (i) One member representing cities of the second class  
24 and villages within Douglas, Sarpy, Lancaster, Cass, and Saunders  
25 counties appointed by the other members of the commission;

26 (j) One member appointed by the Board of Regents of the  
27 University of Nebraska;

1 (k) One member appointed by the community college areas;

2 (l) One member appointed by the board of directors of the  
3 Papio-Missouri River Natural Resources District; and

4 (m) One member appointed by the board of directors of the  
5 Lower Platte South Natural Resources District.

6 (3) The chairperson and vice-chairperson of the  
7 commission shall be elected by a majority of the members of the  
8 commission at the first commission meeting and shall each serve a  
9 two-year term as chairperson and vice-chairperson, respectively.  
10 The commission shall meet at the call of the chairperson or a  
11 majority of the members. The chairperson shall call such meetings  
12 as he or she determines necessary to fulfill the duties of the  
13 commission. A quorum shall be one-half of the members. The  
14 members of the commission shall be reimbursed for their actual and  
15 necessary expenses as provided in sections 81-1174 to 81-1177.

16 (4) The commission shall carry out the duties set forth  
17 in section 4 of this act as they relate to eastern Nebraska.  
18 Sec. 8. The provisions of the Nebraska Opportunity Zone  
19 Act shall terminate on December 31, 2010."  
20 2. On page 1, line 3, strike the first "and" and after  
21 "duties" insert "; and to provide a termination date".

**LEGISLATIVE BILL 546A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

### **ANNOUNCEMENT**

Senator Dw. Pedersen designates LB 677 as his priority bill.

### **AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 32:

FA76

On line 9, page 2 strike "six" and insert "two"

Senator Beutler filed the following amendment to LB 508:

FA77

On page 3, line 8 strike the new language and replace the old.

On page 3 line 7 strike the words "at least" and insert the words "up to"

### **UNANIMOUS CONSENT - Add Cointroducers**

Senators Flood, Connealy, Cunningham, and Engel asked unanimous consent to have their names added as cointroducers to LB 38. No objections. So ordered.

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LBs 57, 178, 181, 657, 750, and 752. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were the McPherson County High School girls' basketball team and parents; Diller-Odell High School government class; 18 fourth-grade students and teacher from St. Paul's Lutheran School, Beatrice; and 20 seventh- through eleventh-grade youth-group students and teacher from Litchfield.

**ADJOURNMENT**

At 12:15 p.m., on a motion by Senator Kopplin, the Legislature adjourned until 10:00 a.m., Tuesday, March 8, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**THIRTY-NINTH DAY - MARCH 8, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****THIRTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, March 8, 2005

**PRAYER**

The prayer was offered by Pastor John Emslie, Trinity Lutheran Church, Blair.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Dw. Pedersen who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-eighth day was approved.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on March 3, 2005, at 12:25 p.m. were the following: LBs 1, 2, 3, 11, 15e, 16e, 17, 18, 20e, 21e, 33, 37e, 51, 52, 54e, 176, 53, 59, 61e, 80, 83e, 88, 89, 118, 119, 162, 175, 216, 261, 263e, 283, 301e, 329, and 383e.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**SELECT COMMITTEE REPORT  
Enrollment and Review****Correctly Reengrossed**

The following bill was correctly reengrossed: LB 169.

(Signed) Michael Flood, Chairperson

**STANDING COMMITTEE REPORT**  
**Judiciary**

The Judiciary Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Charles Brewster - Crime Victim's Reparations Committee  
William Brueggeman - Crime Victim's Reparations Committee

VOTE: Aye: Senators Bourne, Combs, Flood, Foley, Friend, Dw. Pedersen.  
Nay: None. Absent: Senators Aguilar, Chambers.

(Signed) Patrick J. Bourne, Chairperson

**COMMUNICATION**

March 7, 2005

Senator Pat Engel  
Chairman, Executive Board  
Room 2010, State Capitol  
Lincoln, NE 68509

Dear Senator Engel:

Enclosed is correspondence from the Nebraska Health and Human Services System, Division of Behavioral Health. The provisions of Section 10 of LB 1083, 2004, require notification to the Legislature and Governor of certain occupancy thresholds having been met as they relate to psychiatric hospital bed capacity.

I am forwarding this correspondence to you for Executive Board action, as outlined in LB 1083.

Sincerely,  
(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

PJO:jk

**COMMUNICATIONS**

Received communications from the Nebraska Health and Human Services System, Division of Behavioral Health, pursuant to Section 10(6) of LB 1083, 2004, regarding the occupancy of the licensed psychiatric hospital beds of regional centers reaching the twenty percent or less threshold of its licensed psychiatric hospital bed capacity.

**MESSAGES FROM THE GOVERNOR**

March 1, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed to the Boiler Safety Code Advisory Board.

APPOINTEE:

Kenneth Stewart, 16039 Orchard Circle, Omaha NE 68135

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/  
Enclosure

March 1, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed to the Coordinating Commission for Postsecondary Education.

APPOINTEE:

Dr. Joyce Simmons, 220 North Hall Street, Valentine NE 69201

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/  
Enclosure

**RESOLUTIONS****LEGISLATIVE RESOLUTION 48.** Introduced by Cunningham, 40.

WHEREAS, the Wynot Blue Devils girls' basketball team is the champion of the 2005 Class D-2 Girls' State basketball tournament; and

WHEREAS, the victory marks the first time the Blue Devils have won a state championship; and

WHEREAS, the Wynot Blue Devils girls' basketball team finished their season with an impressive 23-4 record; and

WHEREAS, the Wynot Blue Devils have displayed superior sportsmanship and have demonstrated that hard work, dedication, and discipline throughout the season produces results; and

WHEREAS, the Wynot Blue Devils girls' basketball team members are positive role models for young athletes in the community and throughout the region; and

WHEREAS, such a team achievement is made possible not only by the players' performances and coaching guidance but also through the support of parents, teachers, and administrators.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes and congratulates the Wynot Blue Devils girls' basketball team and its coaches.

2. That a copy of this resolution be sent to the Wynot Blue Devils girls' basketball team head coach Steve Wieseler.

Laid over.

**LEGISLATIVE RESOLUTION 49.** Introduced by Cunningham, 40.

WHEREAS, the Crofton Warriors girls' basketball team is the champion of the 2005 Class C-1 Girls' State basketball tournament; and

WHEREAS, the victory marks the first time the Warriors have won a state championship; and

WHEREAS, the Crofton Warriors girls' basketball team finished their season with an impressive 21-3 record; and

WHEREAS, throughout the year the Crofton Warriors have complemented their talents with the characteristics of sportsmanship, determination, and diligence; and

WHEREAS, the Crofton Warriors girls' basketball team members are positive role models for young athletes in the community and throughout the region; and

WHEREAS, such a team achievement is made possible not only by the players' performances and coaching guidance but also through the support of parents, teachers, and administrators.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes and congratulates the Crofton Warriors

girls' basketball team and its coaches.

2. That a copy of this resolution be sent to the Crofton Warriors girls' basketball team head coach Aaron Losing.

Laid over.

### **ANNOUNCEMENT**

The Government, Military and Veterans Affairs Committee designates LB 401 as its priority bill.

### **GENERAL FILE**

**LEGISLATIVE BILL 9.** Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 55.** Title read. Considered.

The Standing Committee amendment, AM0137, found on page 382, was adopted with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

Advanced to E & R for review with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 450.** Title read. Considered.

Advanced to E & R for review with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 247.** Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 17 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 544.** Title read. Considered.

Advanced to E & R for review with 39 ayes, 0 nays, 9 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 122.** Title read. Considered.

The Standing Committee amendment, AM0204, found on page 418, was adopted with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 14 present and not

voting, and 1 excused and not voting.

**LEGISLATIVE BILL 471.** Title read. Considered.

Advanced to E & R for review with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 105.** Title read. Considered.

Advanced to E & R for review with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 360.** Title read. Considered.

Advanced to E & R for review with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 362.** Title read. Considered.

Advanced to E & R for review with 34 ayes, 0 nays, 14 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 363.** Title read. Considered.

Advanced to E & R for review with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 402.** Title read. Considered.

Advanced to E & R for review with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 648.** Title read. Considered.

Advanced to E & R for review with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 649.** Title read. Considered.

Advanced to E & R for review with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 650.** Title read. Considered.

Advanced to E & R for review with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 115.** Title read. Considered.

The Standing Committee amendment, AM0107, found on page 423, was adopted with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 342.** Title read. Considered.

Advanced to E & R for review with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 640.** Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 291.** Title read. Considered.

The Standing Committee amendment, AM0294, found on page 456, was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 406.** Title read. Considered.

Advanced to E & R for review with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 241.** Title read. Considered.

Advanced to E & R for review with 30 ayes, 1 nay, 15 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 97.** Title read. Considered.

The Standing Committee amendment, AM0172, found on page 519, was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 451.** Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

**SPEAKER BRASHEAR PRESIDING****LEGISLATIVE BILL 525.** Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

**RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR 46 was adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 46.

**GENERAL FILE****LEGISLATIVE BILL 201.** Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

**SENATOR CUDABACK PRESIDING****LEGISLATIVE BILL 647.** Title read. Considered.

Senator Beutler offered the following amendment:  
AM0701

- 1 1. Strike original section 3.
- 2 2. On page 4, line 8, strike "sections" and insert
- 3 "section" and strike "and 21-2634"; and in line 9 strike "are" and
- 4 insert "is".
- 5 3. Renumber the remaining section accordingly.

The Beutler amendment was adopted with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 676.** Title read. Considered.

Advanced to E & R for review with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 528.** Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 626.** Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 639.** Title read. Considered.

The Standing Committee amendment, AM0443, found on page 562, was adopted with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 306.** Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

### **MOTION - Suspend Rules**

Senator Chambers offered the following motion:

To suspend the rules, Rule 6, Section 3 and Rule 7, Section 3, to permit the adoption of committee amendments to LBs 259, 319, and 754, and the advancement of the following bills to E & R Initial on a single vote: 259, 476, 501, 762, 319, 78, 331, 453, 534, 320, 396, 754, 475, and 380.

The Chambers motion to suspend the rules, Rule 6, Section 3 and Rule 7, Section 3, to permit the adoption of committee amendments to LBs 259, 319, and 754, and the advancement of the following bills to E & R Initial on a single vote: 259, 476, 501, 762, 319, 78, 331, 453, 534, 320, 396, 754, 475, and 380, prevailed with 37 ayes, 2 nays, 6 present and not voting, and 4 excused and not voting.

### **STANDING COMMITTEE REPORTS**

#### **Health and Human Services**

**LEGISLATIVE BILL 256.** Placed on General File as amended.

Standing Committee amendment to LB 256:

AM0542

- 1 1. On page 4, line 10, after "act" insert "and approved
- 2 by the board"; and in line 23 after the second underscored comma
- 3 insert "who applies on or after such date and before September 1,
- 4 2007".
- 5 2. On page 5, line 8, strike "approval" and insert
- 6 "concurrence"; strike beginning with "In" in line 10 through "an"

- 7 in line 12 and insert "An"; and in line 25 strike "board" and  
8 insert "department".
- 9 3. On page 6, line 17, after "nurse" insert "or the  
10 authority to practice as a registered nurse in this state based on  
11 the Nurse Licensure Compact" and after "license" insert "or such  
12 authority".
- 13 4. On page 7, line 8, strike "him or her" and insert  
14 "such license".
- 15 5. On page 19, strike beginning with "an" in line 22  
16 through "(3)" in line 23 and show the old matter as stricken; in  
17 line 23 before "an" insert "a certified registered nurse  
18 anesthetist; (3)"; in line 26 after "or" insert "certified  
19 registered" and reinstate the stricken matter; and strike beginning  
20 with "advanced" in line 26 through "nurses" in line 27.
- 21 6. On page 20, line 15, after "or" insert "certified  
22 registered"; and in lines 15 and 16 strike the new matter and  
23 reinstate the stricken matter.
- 24 7. On page 22, line 4, after "or" insert "certified  
1 registered"; and in lines 4 and 5 strike the new matter and  
2 reinstate the stricken matter.
- 3 8. On page 34, line 17, after "interventions" insert ",  
4 including, but not limited to, performing physical and  
5 psychological assessments of patients under restraint and seclusion  
6 as required by federal law, if the registered nurse has been  
7 trained in the use of emergency safety intervention".
- 8 9. On page 41, strike beginning with "Examine" in line  
9 25 through "(6)" in line 27 and show the old matter as stricken.
- 10 10. On page 42, line 1, strike "(7)", show as stricken,  
11 and insert "(6)"; in line 7 strike "(8)", show as stricken, and  
12 insert "(7)"; in line 11 strike "(9)", show as stricken, and insert  
13 "(8)"; in line 15 strike "(10)", show as stricken, and insert  
14 "(9)"; in line 16 strike "(11)", show as stricken, and insert  
15 "(10)"; in line 18 strike "(12)", show as stricken, and insert  
16 "(11)"; in line 22 strike "(13)", show as stricken, and insert  
17 "(12)"; and in line 24 strike "(14)", show as stricken, and insert  
18 "(13)".
- 19 11. On page 57, strike lines 7 through 28 and insert the  
20 following new subdivisions:
- 21 "(b) On and after the operative date of this act, the  
22 board shall consist of:
- 23 (i) One nurse practitioner holding a certificate under  
24 the Nurse Practitioner Act, one certified nurse midwife holding a  
25 certificate under the Nebraska Certified Nurse Midwifery Practice  
26 Act, one certified registered nurse anesthetist holding a  
27 certificate under the Certified Registered Nurse Anesthetist Act,  
1 and one clinical nurse specialist holding a certificate under the  
2 Clinical Nurse Specialist Practice Act, except that the initial  
3 clinical nurse specialist appointee may be a clinical nurse  
4 specialist practicing pursuant to the Nurse Practice Act as such

- 5 act existed prior to the operative date of this act. Of the  
 6 initial appointments under this subdivision, one shall be for a  
 7 one-year term, one shall be for a two-year term, one shall be for a  
 8 three-year term, and one shall be for a four-year term. All  
 9 subsequent appointments under this subdivision shall be for  
 10 four-year terms;  
 11 (ii) Three physicians, one of whom shall have a  
 12 professional relationship with a nurse practitioner, one of whom  
 13 shall have a professional relationship with a certified nurse  
 14 midwife, and one of whom shall have a professional relationship  
 15 with a certified registered nurse anesthetist. Of the initial  
 16 appointments under this subdivision, one shall be for a two-year  
 17 term, one shall be for a three-year term, and one shall be for a  
 18 four-year term. All subsequent appointments under this subdivision  
 19 shall be for four-year terms; and  
 20 (iii) Two public members. Of the initial appointments  
 21 under this subdivision, one shall be for a three-year term, and one  
 22 shall be for a four-year term. All subsequent appointments under  
 23 this subdivision shall be for four-year terms. Public members of  
 24 the board shall have the same qualifications as provided in  
 25 subsection (1) of section 71-113.  
 26 (c) Members of the board serving immediately before the  
 27 operative date of this act shall serve until members are appointed  
 1 and qualified under subdivision (2)(b) of this section."  
 2 12. On page 58, strike lines 1 through 14.  
 3 13. On page 60, line 14, strike beginning with "Issue"  
 4 through "recommend" and insert "Recommend".  
 5 14. On page 61, lines 13 and 16, strike "board" and  
 6 insert "department".  
 7 15. On page 62, line 9, after "application" insert "to  
 8 the department"; and in lines 21 and 27 strike "board" and insert  
 9 "department".  
 10 16. On page 63, lines 4 and 10, strike "board" and  
 11 insert "department"; in line 17 after "application" insert "to the  
 12 department"; in line 23 strike the comma and insert "or"; strike  
 13 beginning with the comma in line 24 through "specialist" in line  
 14 25; and in line 26 after "license" insert "by the department".  
 15 17. On page 65, line 28, strike "him or her" and insert  
 16 "such license".  
 17 18. On page 72, line 22, after "license" insert "by the  
 18 department"; and in lines 23 and 24 strike "a certificate" and  
 19 insert "shall be issued a certificate by the department".  
 20 19. On page 78, line 28, strike "him or her", show as  
 21 stricken, and insert "such license".  
 22 20. On page 83, line 8, strike "him or her" and insert  
 23 "such license".

**LEGISLATIVE BILL 382.** Placed on General File as amended.

(Standing Committee amendment, AM0702, is printed separately and

available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 551.** Placed on General File as amended.

Standing Committee amendment to LB 551:

AM0695

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 71-810, Revised Statutes Supplement,
- 4 2004, is amended to read:
- 5 71-810. (1) The division shall encourage and facilitate
- 6 the statewide development and provision of an appropriate array of
- 7 community-based behavioral health services and continuum of care
- 8 for the purposes of (a) providing greater access to such services
- 9 and improved outcomes for consumers of such services and (b)
- 10 reducing the necessity and demand for regional center behavioral
- 11 health services.
- 12 (2) The division may reduce or discontinue regional
- 13 center behavioral health services only if (a) appropriate
- 14 community-based services or other regional center behavioral health
- 15 services are available for every person receiving the regional
- 16 center services that would be reduced or discontinued, (b) such
- 17 services possess sufficient capacity and capability to effectively
- 18 replace the service needs which otherwise would have been provided
- 19 at such regional center, and (c) no further commitments,
- 20 admissions, or readmissions for such services are required due to
- 21 the availability of community-based services or other regional
- 22 center services to replace such services.
- 23 (3) The division shall notify the Governor and the
- 24 Legislature of any intended reduction or discontinuation of
- 1 regional center services under this section. Such notice shall
- 2 include detailed documentation of the community-based services or
- 3 other regional center services that are being utilized to replace
- 4 such services. The Behavioral Health Oversight Commission of the
- 5 Legislature shall review such documentation and shall report to the
- 6 Governor and the Health and Human Services Committee of the
- 7 Legislature whether, in its opinion, the requirements of subsection
- 8 (2) of this section have been met with respect to such intended
- 9 reduction or discontinuation of regional center services and shall
- 10 enumerate the criteria used by the commission in making such
- 11 determination.
- 12 (4) As regional center services are reduced or
- 13 discontinued under this section, the division shall make
- 14 appropriate corresponding reductions in regional center personnel
- 15 and other expenditures related to the provision of such services.
- 16 All funding related to the provision of regional center services
- 17 that are reduced or discontinued under this section shall be
- 18 reallocated and expended by the division for purposes related to
- 19 the statewide development and provision of community-based
- 20 services.

21 (5) The division may establish state-operated  
22 community-based services to replace regional center services that  
23 are reduced or discontinued under this section. The division shall  
24 provide regional center employees with appropriate training and  
25 support to transition such employees into positions as may be  
26 necessary for the provision of such state-operated services.

27 (6) When the occupancy of the licensed psychiatric  
1 hospital beds of any regional center reaches twenty percent or less  
2 of its licensed psychiatric hospital bed capacity on March 15,  
3 2004, the division shall notify the Governor and the Legislature of  
4 such fact. Upon such notification, the division, with the approval  
5 of a majority of members of the Executive Board of the Legislative  
6 Council, may provide for the transfer of all remaining patients at  
7 such center to appropriate community-based services or other  
8 regional center services pursuant to this section and cease the  
9 operation of such regional center.

10 (7) The division, in consultation with each regional  
11 behavioral health authority, shall establish and maintain a data  
12 and information system for all persons receiving state-funded  
13 behavioral health services under the Nebraska Behavioral Health  
14 Services Act. Information maintained by the division shall  
15 include, but not be limited to, (a) the number of persons receiving  
16 regional center services, (b) the number of persons ordered by a  
17 mental health board to receive inpatient or outpatient treatment  
18 and receiving regional center services, (c) the number of persons  
19 ordered by a mental health board to receive inpatient or outpatient  
20 treatment and receiving community-based services, (d) the number of  
21 persons voluntarily admitted to a regional center and receiving  
22 regional center services, (e) the number of persons waiting to  
23 receive regional center services, (f) the number of persons waiting  
24 to be transferred from a regional center to community-based  
25 services or other regional center services, (g) the number of  
26 persons discharged from a regional center who are receiving  
27 community-based services or other regional center services, and (h)

1 the number of persons admitted to behavioral health crisis centers.  
2 Each regional behavioral health authority shall provide such  
3 information as requested by the division and necessary to carry out  
4 this subsection. The division shall submit reports of such  
5 information to the Governor and the Legislature on a quarterly  
6 basis beginning July 1, 2005, in a format which does not identify  
7 any person by name, address, county of residence, social security  
8 number, or other personally identifying characteristic.

9 (8) The provisions of this section are self-executing and  
10 require no further authorization or other enabling legislation.

11 Sec. 2. Section 71-811, Revised Statutes Supplement,  
12 2004, is amended to read:

13 71-811. (1) The division shall coordinate the  
14 integration and management of all funds appropriated by the  
15 Legislature or otherwise received by the Nebraska Health and Human

16 Services System from any other public or private source and  
17 designated by the Policy Cabinet for the provision of behavioral  
18 health services to ensure the statewide availability of an  
19 appropriate array of community-based behavioral health services and  
20 continuum of care and the allocation of such funds to support the  
21 consumer and his or her plan of treatment.

22 (2) The division shall contract with one or more national  
23 entities to review medicaid funding for behavioral health services  
24 and to provide recommendations to increase such funding for such  
25 services. Such contract or contracts shall require the preparation  
26 and submission of a report of such recommendations to the Governor  
27 and the Legislature on or before December 1, 2005.

1 Sec. 3. Section 71-813, Revised Statutes Supplement,  
2 2004, is amended to read:

3 71-813. (1) The State Behavioral Health Council is  
4 created. The council shall consist of (a) ten members of the State  
5 Advisory Committee on Mental Health Services, (b) ten members of  
6 the State Advisory Committee on Substance Abuse Services, and (c)  
7 ten members of the State Advisory Committee on Problem Gambling and  
8 Addiction Services as appointed pursuant to sections 71-814 to  
9 71-816. The Governor shall appoint three members from each such  
10 committee to serve on the council and each committee shall select  
11 seven of its members to serve on the council. At least two members  
12 appointed or selected from each committee shall be consumers.

13 (2) Members of the council and such committees shall be  
14 appointed for staggered terms of three years and until their  
15 successors are appointed and qualified. Vacancies for any  
16 unexpired term shall be filled in the same manner as provided for  
17 the original appointment. Members shall serve without compensation  
18 but shall be reimbursed for their actual and necessary expenses as  
19 provided in sections 81-1174 to 81-1177. The council and each such  
20 committee shall annually elect a chairperson and other officers  
21 from among its members. No officer shall serve more than three  
22 consecutive one-year terms in any one office.

23 (3) The council shall be responsible to the division and  
24 shall (a) conduct regular meetings, (b) provide advice and  
25 assistance to the division relating to the provision of behavioral  
26 health services in the State of Nebraska, (c) promote the interests  
27 of consumers of behavioral health services and their families, and  
1 (d) report annually to the Governor and the Legislature.

2 Sec. 4. Section 71-815, Revised Statutes Supplement,  
3 2004, is amended to read:

4 71-815. (1) The State Advisory Committee on Substance  
5 Abuse Services is created. Members of the committee shall have a  
6 demonstrated interest and commitment and specialized knowledge,  
7 experience, or expertise relating to the provision of substance  
8 abuse services in the State of Nebraska. The committee shall  
9 consist of twelve members appointed by the Governor and shall  
10 include at least three consumers of substance abuse services.

11 (2) The committee shall be responsible to the State  
12 Behavioral Health Council and shall (a) conduct regular meetings,  
13 (b) provide advice and assistance to the council and the division  
14 relating to the provision of substance abuse services in the State  
15 of Nebraska, (c) promote the interests of consumers and their  
16 families, (d) provide reports as requested by the council or the  
17 division, and (e) engage in such other activities as directed or  
18 authorized by the council.

19 Sec. 5. Section 71-816, Revised Statutes Supplement,  
20 2004, is amended to read:

21 71-816. (1) The State Advisory Committee on Problem  
22 Gambling and Addiction Services is created. Members of the  
23 committee shall have a demonstrated interest and commitment and  
24 specialized knowledge, experience, or expertise relating to the  
25 provision of problem gambling and addiction services in the State  
26 of Nebraska. The committee shall consist of twelve members  
27 appointed by the Governor and shall include at least three  
1 consumers of problem gambling or addiction services.

2 (2) The committee shall be responsible to the State  
3 Behavioral Health Council and shall (a) conduct regular meetings,  
4 (b) provide advice and assistance to the council and the division  
5 relating to the provision of problem gambling and addiction  
6 services in the State of Nebraska, (c) evaluate applications for  
7 funding from the Compulsive Gamblers Assistance Fund and make  
8 recommendations relating to disbursements from the fund, (d)  
9 promote the interests of consumers and their families, (e) provide  
10 reports as requested by the council or the division, and (f) engage  
11 in such other activities as directed or authorized by the council.

12 Sec. 6. Section 71-817, Revised Statutes Supplement,  
13 2004, is amended to read:

14 71-817. The Compulsive Gamblers Assistance Fund is  
15 created. The fund shall include revenue transferred from the State  
16 Lottery Operation Trust Fund under section 9-812 and the Charitable  
17 Gaming Operations Fund under section 9-1,101 and any other revenue  
18 received by the division for credit to the fund from any other  
19 public or private source, including, but not limited to,  
20 appropriations, grants, donations, gifts, devises, ~~or~~ bequests,  
21 fees, or reimbursements. The division shall administer the fund  
22 for the treatment of problem gamblers as recommended by the the  
23 State Advisory Committee on Problem Gambling and Addiction Services  
24 established under section 71-816 and shall spend no more than ten  
25 percent of the money appropriated to the fund for administrative  
26 costs. The Director of Administrative Services shall draw warrants  
27 upon the Compulsive Gamblers Assistance Fund upon the presentation  
1 of proper vouchers by the division. Money from the Compulsive  
2 Gamblers Assistance Fund shall be used exclusively for the purpose  
3 of providing assistance to agencies, groups, organizations, and  
4 individuals that provide education, assistance, and counseling to  
5 individuals and families experiencing difficulty as a result of

6 problem gambling, to promote the awareness of gamblers assistance  
7 programs, and to pay the costs and expenses of the division and the  
8 committee with regard to problem gambling. The division shall not  
9 provide any direct services to problem gamblers or their families.  
10 Funds appropriated from the Compulsive Gamblers Assistance Fund  
11 shall not be granted or loaned to or administered by any regional  
12 behavioral health authority unless the authority is a direct  
13 provider of a problem gamblers assistance program. Any money in  
14 the fund available for investment shall be invested by the state  
15 investment officer pursuant to the Nebraska Capital Expansion Act  
16 and the Nebraska State Funds Investment Act.

17 Sec. 7. Section 71-818, Revised Statutes Supplement,  
18 2004, is amended to read:

19 71-818. (1) The Behavioral Health Oversight Commission  
20 of the Legislature is created. The commission shall consist of not  
21 more than ~~twenty~~ twenty-five members appointed by the chairperson  
22 of the Health and Human Services Committee of the Legislature and  
23 confirmed by a majority of members of the committee. Members of  
24 the commission shall (a) include, but not be limited to,  
25 representatives of the Legislature, consumers and consumer advocacy  
26 organizations, behavioral health providers, the communities of  
27 Norfolk and Hastings, state employees, regional behavioral health  
1 authorities, mental health boards, and law enforcement, (b) possess  
2 a demonstrated interest and commitment and specialized knowledge,  
3 experience, or expertise relating to the provision of behavioral  
4 health services in the State of Nebraska, and (c) be broadly  
5 representative of all the behavioral health regions. Members of  
6 the commission shall serve without compensation but shall be  
7 reimbursed from the Nebraska Health Care Cash Fund for their actual  
8 and necessary expenses as provided in sections 81-1174 to 81-1177.

9 (2) The commission, under the direction of and in  
10 consultation with the Health and Human Services Committee of the  
11 Legislature, shall oversee and support implementation of the  
12 Nebraska Behavioral Health Services Act and shall administer such  
13 funds as appropriated by the Legislature from the Nebraska Health  
14 Care Cash Fund for such purpose. The commission may employ staff,  
15 enter into contracts, establish and utilize task forces and  
16 subcommittees, and perform such other activities as necessary and  
17 appropriate to carry out its duties under this section.

18 (3) The commission and this section terminate on June 30,  
19 2008.

20 Sec. 8. Section 71-906, Revised Statutes Supplement,  
21 2004, is amended to read:

22 71-906. Mental health professional means a person  
23 licensed to practice medicine and surgery or psychology in this  
24 state under the Uniform Licensing Law or licensed as an advanced  
25 practice registered nurse under the Advanced Practice Registered  
26 Nurse Act with proof of current certification in a psychiatric or  
27 mental health specialty.

- 1 Sec. 9. Original sections 71-810, 71-811, 71-813, 71-815  
2 to 71-818, and 71-906, Revised Statutes Supplement, 2004, are  
3 repealed.  
4 Sec. 10. Since an emergency exists, this act takes  
5 effect when passed and approved according to law."

**LEGISLATIVE BILL 381.** Indefinitely postponed.

**LEGISLATIVE BILL 725.** Indefinitely postponed.

**LEGISLATIVE BILL 744.** Indefinitely postponed.

(Signed) Jim Jensen, Chairperson

### **Business and Labor**

**LEGISLATIVE BILL 230.** Placed on General File.

(Signed) Douglas Cunningham, Chairperson

### **Agriculture**

**LEGISLATIVE BILL 131.** Placed on General File as amended.

Standing Committee amendment to LB 131:

AM0604

- 1 1. Strike the original sections and insert the following  
2 sections:  
3 "Section 1. Section 81-2,239, Revised Statutes  
4 Supplement, 2004, is amended to read:  
5 81-2,239. Sections 81-2,239 to 81-2,292 and section 3 of  
6 this act and the provisions of the Food Code, the Food Salvage  
7 Code, and the Current Good Manufacturing Practice In Manufacturing,  
8 Packing, or Holding Human Food adopted by reference in sections  
9 81-2,257.01 to 81-2,259, shall be known and may be cited as the  
10 Nebraska Pure Food Act.  
11 Sec. 2. Section 81-2,240, Revised Statutes Supplement,  
12 2004, is amended to read:  
13 81-2,240. For purposes of the Nebraska Pure Food Act,  
14 unless the context otherwise requires, the definitions found in  
15 sections 81-2,241 to 81-2,254.01 and section 3 of this act shall be  
16 used. In addition, the definitions found in the codes and practice  
17 adopted by reference in sections 81-2,257.01 to 81-2,259, shall be  
18 used.  
19 Sec. 3. Commercial food establishment means an operation  
20 with a permanent sales location and such location has more than one  
21 hundred cubic feet of area containing food.  
22 Sec. 4. Section 81-2,245.01, Reissue Revised Statutes of  
23 Nebraska, is amended to read:  
24 81-2,245.01. Food establishment shall mean an operation  
1 that stores, prepares, packages, serves, sells, vends, or otherwise  
2 provides food for human consumption. The term does not include:

3 (1) An establishment or vending machine operation that  
4 offers only prepackaged soft drinks, carbonated or noncarbonated; ~~;~~  
5 ~~that do not contain a primary dairy product or dairy ingredient~~  
6 ~~base or that contain less than fifteen percent natural fruit or~~  
7 ~~vegetable juice~~ canned or bottled fruit and vegetable juices;  
8 prepackaged ice; candy; chewing gum; potato or corn chips;  
9 pretzels; cheese puffs and curls; crackers; popped popcorn; nuts  
10 and edible seeds; and cookies, cakes, pies, and other pastries,  
11 that are not potentially hazardous foods;

12 (2) A produce stand that only offers whole, uncut fresh  
13 fruits and vegetables;

14 (3) A food processing plant;

15 (4) A salvage operation;

16 (5) A private home where food is prepared or served for  
17 personal use, a small day care in the home, or a hunting lodge,  
18 guest ranch, or other operation where no more than ten paying  
19 guests eat meals in the home;

20 (6) A private home or other area where food that is not  
21 potentially hazardous food is prepared: (a) For sale or service at  
22 a religious, charitable, or fraternal organization's bake sale or  
23 similar function; or (b) for sale directly to the consumer at a  
24 farmers market if the consumer is informed by a clearly visible  
25 placard at the sale location that the food was prepared in a  
26 kitchen that is not subject to regulation and inspection by the  
27 regulatory authority;

1 (7) A private home or other area where food is prepared  
2 for distribution at a fund-raising event for a charitable purpose  
3 if the consumer is informed by a clearly visible placard at the  
4 serving location that the food was prepared in a kitchen that is  
5 not subject to regulation and inspection by the regulatory  
6 authority. This subdivision does not apply to a caterer or other  
7 establishment providing food for the event if the caterer or  
8 establishment receives compensation for providing the food;

9 (8) The location where food prepared by a caterer is  
10 served so long as the caterer only minimally handles the food at  
11 the serving location;

12 ~~(8)~~ (9) Educational institutions, health care facilities,  
13 nursing homes, and governmental organizations which are inspected  
14 by a state agency or a political subdivision other than the  
15 regulatory authority for sanitation in the food preparation areas;  
16 ~~and~~

17 ~~(9)~~ (10) A pharmacy as defined in section 71-425 if the  
18 pharmacy only sells prepackaged pharmaceutical, medicinal, or  
19 health supplement foods that are not potentially hazardous or foods  
20 described in subdivision (1) of this section; and

21 (11) An establishment which is not a commercial food  
22 establishment and which sells only commercially packaged foods that  
23 are not potentially hazardous foods.

24 Sec. 5. Original section 81-2,245.01, Reissue Revised

25 Statutes of Nebraska, and sections 81-2,239 and 81-2,240, Revised  
26 Statutes Supplement, 2004, are repealed."

**LEGISLATIVE BILL 439.** Placed on General File as amended.

Standing Committee amendment to LB 439:

AM0628

- 1 1. Strike the original sections and insert:
- 2 "Section 1. Section 75-902, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 75-902. For purposes of the Grain Dealer Act, unless the
- 5 context otherwise requires:
- 6 (1) Commission means the Public Service Commission;
- 7 (2) Direct delivery grain has the same meaning as in
- 8 section 88-526;
- 9 (3) Direct delivery obligation has the same meaning as in
- 10 section 88-526;
- 11 (4) Grain includes, but is not limited to, all
- 12 unprocessed beans, whole corn, milo and other sorghum, wheat, rye,
- 13 barley, oats, millet, safflower seed and processed plant pellets,
- 14 alfalfa pellets, and any other bulk pelleted agricultural storable
- 15 commodity, except grain which has been processed or packaged for
- 16 distribution as seed;
- 17 ~~(3) (5) Grain dealer means any person, partnership,~~
- 18 limited liability company, corporation, or association; other than
- 19 a custom feeder of livestock or poultry or a grain warehouse
- 20 licensed under the Grain Warehouse Act or located in Nebraska and
- 21 licensed under the United States Warehouse Act that does not buy,
- 22 sell, or transport grain other than grain that is received at its
- 23 licensed warehouse facilities; who that (a) buys grain from its the
- 24 owner or producer of the grain within this state for purposes of
- 1 selling such grain, (b) transports grain into this state for
- 2 purposes of selling such grain, or (c) acts as an employee or agent
- 3 of a buyer or seller for purposes of collective bargaining in the
- 4 marketing of grain. Grain dealer does not include (i) a custom
- 5 feeder of livestock or poultry or (ii) a warehouse licensee under
- 6 the Grain Warehouse Act or a warehouse licensee under the United
- 7 States Warehouse Act of a warehouse located in Nebraska if the
- 8 warehouse licensee does not buy, sell, or transport grain other
- 9 than grain that is received at its licensed warehouse facilities;
- 10 (6) In-store transfer has the same meaning as in section
- 11 88-526; and
- 12 (4) (7) Post-direct delivery storage position has the
- 13 same meaning as in section 88-526; and
- 14 (8) Producer means the owner, tenant, or operator of land
- 15 in this state who has an interest in and receives all or part of
- 16 the proceeds from the sale of grain produced on that land.
- 17 Sec. 2. Section 75-903, Reissue Revised Statutes of
- 18 Nebraska, is amended to read:
- 19 75-903. All grain dealers doing business in this state

20 shall be licensed by the commission. If the applicant is an  
21 individual, the application shall include the applicant's social  
22 security number. To procure and maintain a license, each grain  
23 dealer shall:

24 (1) Pay an annual fee of sixty dollars which shall be due  
25 on or before the date established by the commission for each  
26 license and a registration fee not to exceed forty dollars per year  
27 for each vehicle used by such licensee to transport grain. Such  
1 fees shall be paid to the State Treasurer and credited to the  
2 General Fund;

3 (2) Equip each vehicle used by the licensee for grain  
4 transportation with a commercial license plate registered with the  
5 Department of Motor Vehicles, except that a licensee who resides in  
6 another state shall license such vehicles according to the laws of  
7 his or her state of residence;

8 (3) Affix a grain dealer plate issued by the commission  
9 to each vehicle used by the licensee;

10 (4) File security which may be a bond issued by a  
11 corporate surety company and payable to the commission, an  
12 irrevocable letter of credit, or a certificate of deposit, subject  
13 to the approval of the commission, for the benefit of any producer  
14 or owner within this state who files a valid claim arising from a  
15 sale to or purchase from a grain dealer. The security shall be in  
16 the amount of thirty-five thousand dollars or seven percent of  
17 grain purchases or exchanges by the grain dealer in the preceding  
18 license year, whichever is greater, not to exceed three hundred  
19 thousand dollars. Amounts used in the calculation of the security  
20 shall include all direct delivery grain purchases and exchanges  
21 valued on the date delivery is made. Amounts used in the  
22 calculation of the security shall not include any transactions in  
23 which direct delivery grain is exchanged for a post-direct delivery  
24 storage position and the post-direct delivery storage position is  
25 created by an in-store transfer on the same date as the delivery of  
26 the direct delivery grain. Such security shall be furnished on the  
27 condition that the licensee will pay for any grain purchased upon  
1 demand, not later than thirty days after the date of the last  
2 shipment of any contract. The liability of the surety shall cover  
3 purchases and sales made or arranged by the grain dealer during the  
4 time the bond is in force. A grain dealer's bond filed with the  
5 commission shall be in continuous force and effect until canceled  
6 by the surety. The liability of the surety on any bond required by  
7 this section shall not accumulate for each successive license  
8 period during which the bond is in force; and  
9 (5) File a reviewed or audited fiscal year-end financial  
10 statement prepared by a person or firm which holds a permit granted  
11 by the Nebraska State Board of Public Accountancy. If licensing as  
12 an individual, the financial statement shall be prepared in  
13 accordance with Other Comprehensive Basis of Accountancy, as filed  
14 with the board, for a personal financial statement, using

15 historical cost and accrual basis of accounting. If licensing as a  
16 partnership, corporation, or limited liability company, the  
17 financial statement shall be prepared in conformity with accounting  
18 principles generally accepted in the United States. The financial  
19 statement shall include: (a) A statement of income showing profit  
20 or loss; (b) a balance sheet; (c) a statement of cash flow; (d) a  
21 statement of proprietor's capital or retained earnings; (e) the  
22 volume and dollar value of the grain purchases the licensee made in  
23 Nebraska during the fiscal year; (f) the volume and dollar value of  
24 transactions in which direct delivery grain is exchanged for a  
25 post-direct delivery storage position and the post-direct delivery  
26 storage position is not created by an in-store transfer on the same  
27 date as the delivery of the direct delivery grain; and ~~(f)~~ (g) the  
1 accountant's certification, assurances, opinions, and comments and  
2 the notes with respect to the financial statement. If the volume  
3 and dollar value of the grain purchases is not reported, the grain  
4 dealer shall file the maximum grain dealer security as required by  
5 the Grain Dealer Act.

6 If an applicant for a grain dealer license is a wholly  
7 owned subsidiary of a parent company and such a financial statement  
8 is not prepared for the subsidiary, the parent company shall submit  
9 its reviewed or audited fiscal year-end financial statement and  
10 shall execute an unconditional guarantee agreement as prescribed by  
11 the commission.

12 Sec. 3. Section 75-905, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 75-905. (1) Except as provided in subsection (2) of this  
15 section, no seller shall have recourse to the grain dealer's  
16 security unless the seller:

17 (a) Demands that payment from the grain dealer be made  
18 within thirty days after the date the grain dealer takes possession  
19 of the seller's grain;

20 (b) Negotiates any negotiable instrument issued as  
21 payment for grain by the grain dealer within thirty days after its  
22 issuance; and

23 (c) Notifies the commission within thirty days after any  
24 apparent loss to be covered under the terms of the grain dealer's  
25 security.

26 (2) When grain is delivered to a grain dealer in multiple  
27 shipments comprising one contract, the seller shall not have  
1 recourse to the grain dealer's security unless the seller notifies  
2 the commission within thirty days after the date of the last  
3 shipment of any apparent loss to be covered under the terms of the  
4 grain dealer's security.

5 (3) The grain dealer security shall provide security for  
6 direct delivery grain until any post-direct delivery storage  
7 position is created for a period not to exceed thirty days after  
8 the date of the last shipment of the contract.

9 Sec. 4. Section 88-526, Revised Statutes Supplement,

10 2004, is amended to read:

11 88-526. As used in the Grain Warehouse Act, unless the  
12 context otherwise requires:

13 (1) Commission ~~shall mean~~ means the Public Service  
14 Commission;

15 (2) Direct delivery grain means all grain that is bought,  
16 sold, or transported in the name of a warehouse licensee, other  
17 than grain that is received at the licensed warehouse facilities;

18 (3) Direct delivery obligation means the obligation of a  
19 warehouse licensee or grain dealer to transfer title to  
20 warehouse-owned grain to a producer by an in-store transfer upon  
21 the delivery of direct delivery grain. A direct delivery  
22 obligation is treated as a grain dealer obligation until such time  
23 as it is satisfied by an in-store transfer;

24 (4) Grain ~~shall mean~~ means wheat, corn, oats, soybeans,  
25 barley, rye, flax, or sorghum which has not been processed or  
26 packaged for the purpose of distribution as seed, including, but  
27 not limited to, edible beans, whole corn plant pellets, alfalfa  
1 pellets, millet, sunflower seed, safflower seed, and any other bulk  
2 pelleted agricultural storable commodity;

3 (5) Grain dealer has the same meaning as in section  
4 75-902;

5 (6) Grain in storage ~~shall mean~~ means any grain which  
6 has been received at any warehouse and to which title has not been  
7 transferred to the warehouseman by signed contract or priced scale  
8 ticket;

9 (7) In-store transfer means a method by which a warehouse  
10 licensee transfers title to warehouse-owned grain to any person in  
11 satisfaction of a direct delivery obligation between the warehouse  
12 licensee or grain dealer and the producer, and the grain remains in  
13 the warehouse;

14 (8) Post-direct delivery storage position means a storage  
15 position acquired through an in-store transfer in satisfaction of a  
16 direct delivery obligation;

17 (9) Warehouse ~~shall mean~~ means any grain elevator,  
18 mill, grist mill, building, or receptacle in which grain is held in  
19 storage for more than ten consecutive days;

20 (10) Warehouse licensee ~~shall mean~~ means any  
21 warehouseman who is licensed pursuant to the Grain Warehouse Act;  
22 and

23 (11) Warehouseman ~~shall mean~~ means any person,  
24 partnership, limited liability company, corporation, or association  
25 who (a) receives grain for storage or stores or offers to store  
26 grain for legal consideration for another person, partnership,  
27 limited liability company, corporation, or association in a  
1 warehouse where delivered or (b) receives grain for shipment to  
2 other points for storage, consignment, or resale either in or out  
3 of this state.

4 Sec. 5. Section 88-528, Revised Statutes Supplement,

5 2004, is amended to read:

6 88-528. Each applicant for a license and each warehouse  
7 licensee shall annually file an application with the commission and  
8 shall submit to a criminal background check as set forth in section  
9 88-528.01. The application shall be in the form prescribed by the  
10 commission to do business under the Grain Warehouse Act and shall  
11 include an audited or reviewed fiscal year-end financial statement  
12 prepared in accordance with generally accepted accounting practices  
13 in the United States by a person or firm which holds a permit  
14 granted by the Nebraska State Board of Public Accountancy. If the  
15 applicant files a reviewed fiscal year-end financial statement, the  
16 applicant shall also provide additional security pursuant to  
17 section 88-530 in such amount as the commission requires. If  
18 licensing as an individual, the financial statement shall be  
19 prepared in accordance with Other Comprehensive Basis of  
20 Accountancy, as filed with the board, for a personal financial  
21 statement, using historical cost and accrual basis of accounting.  
22 The financial statement shall include: (1) A balance sheet; (2) a  
23 statement of income showing profit or loss; (3) a statement of  
24 retained earnings; (4) a statement of changes in the financial  
25 position; and (5) the accountant's certifications, assurances,  
26 opinions, comments, and notes with regard to such financial  
27 statement. An applicant may also submit a valuation of assets by  
1 competent appraisal acceptable to the commission for inclusion in  
2 computing net worth for the purpose of meeting any net worth  
3 requirements imposed by the act or rules and regulations of the  
4 commission. If a valuation of assets is submitted, no more than  
5 seventy percent of appraised value shall be used in determining  
6 compliance with net worth requirements. Such application shall set  
7 forth the location of the warehouse to be used by the applicant,  
8 its relation to railroad trackage, its capacity, its general plan  
9 and equipment, and its ownership.

10 If an applicant for a license is a wholly owned  
11 subsidiary of a parent company and such a financial statement is  
12 not prepared for the subsidiary, the parent company shall submit  
13 its audited fiscal year-end financial statement and shall execute  
14 an unconditional guarantee agreement as prescribed by the  
15 commission. A parent company may also submit a valuation of assets  
16 on behalf of an applicant that is a wholly owned subsidiary of the  
17 parent company.

18 Sec. 6. Section 88-543, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 88-543. (1) No warehouse licensee ~~or partner, limited~~  
21 ~~liability company member, officer,~~ or agent thereof shall: ~~issue~~  
22 (a) Issue a receipt for grain not actually received. If  
23 at any time there is less grain in a warehouse than outstanding  
24 receipts issued for grain, there shall be a presumption that the  
25 warehouse licensee or partner, limited liability company member,  
26 officer, or agent thereof has wrongfully removed grain, has

27 wrongfully caused grain to be removed, or has issued receipts for  
1 grain not actually received, and has violated this section;  
2 (b) Create a post-direct delivery storage position  
3 without issuing proper documentation consistent with rules and  
4 regulations adopted and promulgated by the commission;  
5 (c) Create a post-direct delivery storage position at any  
6 time the warehouse licensee does not have sufficient  
7 warehouse-owned grain or grain in open storage to cover the storage  
8 position created for the benefit of the producer; or  
9 (d) Record grain as being received or loaded out that has  
10 not been physically deposited in or physically removed from the  
11 warehouse.  
12 (2) Any warehouse licensee or partner, limited liability  
13 company member, officer, or agent thereof who knowingly and  
14 willingly violates this section shall be guilty of a Class IV  
15 felony.  
16 Sec. 7. Original sections 75-902, 75-903, 75-905, and  
17 88-543, Reissue Revised Statutes of Nebraska, and sections 88-526  
18 and 88-528, Revised Statutes Supplement, 2004, are repealed.  
19 Sec. 8. Since an emergency exists, this act takes effect  
20 when passed and approved according to law."

(Signed) Bob Kremer, Chairperson

### ANNOUNCEMENTS

Senator Kruse designates LB 594 as his priority bill.

Senator Baker designates LB 695 as his priority bill.

Senator Kremer designates LB 439 as his priority bill.

Senator Hudkins designates LB 268 as her priority bill.

### REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Simmons, Joyce - Coordinating Commission for Postsecondary Education - Education

Stewart, Kenneth - Boiler Safety Code Advisory Board - Business and Labor

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

**RESOLUTION****LEGISLATIVE RESOLUTION 50.** Introduced by Howard, 9.

WHEREAS, Alexander Payne is a nationally acclaimed director of feature films, native Omahan, and graduate of Creighton Prep High; and

WHEREAS, Mr. Payne won the Academy Award, the highest honor bestowed on members of The Academy of Motion Picture Arts and Sciences, for his screenplay adaptation for the movie Sideways; and

WHEREAS, Mr. Payne has been nominated three times for Academy Awards, including a 2005 nomination for his direction of the movie Sideways and a 1999 nomination for his screenplay for the movie Election; and

WHEREAS, Mr. Payne has had a long and distinguished filmmaking career directing successful movies such as Sideways, Citizen Ruth, About Schmidt, and Election and in writing and producing other major motion pictures; and

WHEREAS, the work of Alexander Payne has been critically acclaimed and has received national and international recognition; and

WHEREAS, Mr. Payne has promoted Nebraska and Omaha by setting several of his movies in this state, including a soon to be released movie entitled Nebraska, and by filming some of those movies in this state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Legislature recognizes and honors the achievements of Alexander Payne.

2. That the Clerk of the Legislature send a copy of this resolution to the Payne family.

Laid over.

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 306A.** Introduced by Byars, 30.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 306, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

**EXPLANATION OF VOTES**

Had I been present, I would have voted "aye" on final passage of LBs 37, 175, and 261.

Had I been present, I would have voted "nay" on final passage of LB 53.

(Signed) Arnie M. Stuthman

**AMENDMENTS - Print in Journal**

Senator Flood filed the following amendment to LB 217:  
AM0614

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Sections 1 to 8 of this act shall be known
- 4 and may be cited as the Public Facilities Construction and Finance
- 5 Act.
- 6 Sec. 2. It is the purpose of the Public Facilities
- 7 Construction and Finance Act to allow local governmental units
- 8 which cooperate with other governmental units to issue bonds to
- 9 finance joint projects which may be serviced by property taxes,
- 10 regardless of the restrictions on the issuance of debt contained in
- 11 other statutory provisions, home rule charters, or the limitations
- 12 in section 77-3442, for the acquisition, construction, financing,
- 13 operation, and ownership of (1) public buildings and related
- 14 improvements to real estate, recreational facilities and related
- 15 improvements, flood control, and street and road construction and
- 16 improvements and (2) information technology for libraries operated
- 17 by counties, municipalities, school districts, educational service
- 18 units, and community colleges.
- 19 Sec. 3. For purposes of the Public Facilities
- 20 Construction and Finance Act:
- 21 (1) Bond measure means a resolution or ordinance which
- 22 authorizes bonds to be issued and sold in accordance with the act
- 23 and which sets the terms of such bonds;
- 24 (2) Joint project means a project financed and operated
- 1 by at least two or more qualified public agencies cooperating as a
- 2 joint entity or joint public agency for (a) any public building or
- 3 buildings and related improvements to real estate, including
- 4 parking facilities, any recreational facilities and related
- 5 improvements to real estate, any flood control, and any street and
- 6 road construction and improvements and related fixtures and (b) any
- 7 item of hardware or software used in providing for the delivery of
- 8 information, including the purchasing of upgrades or related
- 9 improvements to information technology for the operation of
- 10 libraries operated by counties, municipalities, school districts,
- 11 educational service units, and community colleges; and
- 12 (3) Qualified public agency means any city, village,
- 13 municipal county, community college, county, educational service
- 14 unit, rural or suburban fire protection district, hospital
- 15 district, school district, and sanitary and improvement district.
- 16 Sec. 4. (1) In addition to any other borrowing powers
- 17 provided for by law, a qualified public agency shall have the power
- 18 to issue its negotiable bonds to any joint entity as defined in
- 19 section 13-803 or to any joint public agency as defined in section
- 20 13-2503 in connection with any joint project which is to be owned,

21 operated, or financed by the joint entity or joint public agency  
22 for the benefit of the qualified public agency. The bonds may be  
23 issued only if the second largest participant in the joint project  
24 has a financial contribution in the joint project of at least  
25 twenty-five percent of the debt service. Such bonds may be issued  
26 after the qualified public agency has conducted a public hearing on  
27 the issuance of bonds. Notice of such public hearing shall be  
1 given by publication in a newspaper of general circulation within  
2 the territory of the qualified public agency by at least one  
3 publication occurring not less than ten days prior to the time of  
4 hearing. After the public hearing, the governing body of the  
5 qualified public agency may proceed to adopt a bond measure  
6 authorizing bonds.

7 (2) Notice of any such bond measure shall be given by  
8 publication of notice of intention to issue bonds in a newspaper of  
9 general circulation within the territory of the qualified public  
10 agency at least once any time after the adoption of the bond  
11 measure. The notice shall state:

12 (a) The name of the qualified public agency;  
13 (b) The purpose of the issue;  
14 (c) The principal amount of the issue;  
15 (d) The amount of annual debt service payment anticipated  
16 for the bonds, which may be stated as an approximation or estimate,  
17 and the anticipated duration for such debt service payments; and  
18 (e) The time and place where a copy of the form of the  
19 bond measure may be examined for a period of at least thirty days.

20 (3) No election shall be required prior to the issuance  
21 of bonds under the Public Facilities Construction and Finance Act  
22 unless, within thirty days after the first publication of the  
23 notice of intention to issue bonds, a remonstrance petition against  
24 the issuance of bonds, signed by registered voters of the qualified  
25 public agency equal in number to fifteen percent or more of the  
26 registered voters of the qualified public agency, is filed with the  
27 clerk or secretary of the qualified public agency. If a  
1 remonstrance petition with the necessary number of qualified  
2 signatures is timely filed, the question shall be submitted to the  
3 voters of the qualified public agency at a general election or a  
4 special election called for the purpose of approving the bonds  
5 proposed to be issued. Any joint project for which bonds are  
6 issued in accordance with the procedures of the act shall not  
7 require any other approval or proceeding by the governing body or  
8 the voters of the qualified public agency.

9 (4) No election shall be required for any qualified  
10 public agency not issuing bonds to participate in such joint  
11 project unless, within thirty days after the governing body of the  
12 qualified public agency adopts the measure approving the interlocal  
13 or cooperative agreement related to the joint project, a  
14 remonstrance petition signed by registered voters of the qualified  
15 public agency equal in number to fifteen percent or more of the

16 registered voters of the qualified public agency is filed with the  
17 clerk or secretary of the qualified public agency. If a  
18 remonstrance petition with the necessary number of qualified  
19 signatures is timely filed, the question shall be submitted to the  
20 voters of the qualified public agency at a general election or a  
21 special election called for the purpose of approving the interlocal  
22 or cooperative agreement related to the joint project.

23 Sec. 5. For joint projects described in subdivision  
24 (3)(a) of section 3 of this act, the principal amount of bonds  
25 which may be issued by a qualified public agency under the Public  
26 Facilities Construction and Finance Act shall not exceed five  
27 million dollars as to the total principal amount of such bonds  
1 which may be outstanding at any time, and the annual amounts due by  
2 reason of such bonds from each qualified public agency shall not  
3 exceed five percent of the restricted funds of the obligated  
4 qualified public agency in the year prior to issuance. The  
5 principal amount of bonds of qualified public agencies in the  
6 aggregate issued for any one such joint project shall not exceed  
7 five million dollars.

8 Sec. 6. For joint projects described in subdivision  
9 (3)(b) of section 3 of this act, the principal amount of bonds  
10 which may be issued by a qualified public agency under the Public  
11 Facilities Construction and Finance Act shall not exceed two  
12 hundred fifty thousand dollars for cities of the metropolitan and  
13 primary classes, one hundred thousand dollars for counties, cities  
14 of the first class, school districts, educational service units,  
15 and community colleges, and fifty thousand dollars for cities of  
16 the second class and villages, as to the total principal amount of  
17 such bonds which may be outstanding at any time, and the annual  
18 amounts due by reason of such bonds from each qualified public  
19 agency shall not exceed five percent of the restricted funds of the  
20 obligated qualified public agency in the year prior to issuance.  
21 The principal amount of bonds of a qualified public agency in the  
22 aggregate issued for any one such joint project shall not exceed  
23 two hundred and fifty thousand dollars for cities of the  
24 metropolitan and primary classes and one hundred thousand dollars  
25 for counties, cities of the first class, cities of the second  
26 class, villages, school districts, educational service units, and  
27 community colleges.

1 Sec. 7. Any qualified public agency which has issued  
2 bonds in accordance with the Public Facilities Construction and  
3 Finance Act shall levy and collect taxes on all the taxable  
4 property within the territory of the qualified public agency, in  
5 addition to all other taxes, for the purpose of paying the  
6 principal and interest of such bonds as the principal and interest  
7 become due. Taxes levied for such purposes shall not be subject to  
8 the limitations in section 77-3442. The levying of taxes to pay  
9 such bonds for any county shall be subject to the constitutional  
10 limitation upon levying taxes by a county.

11 Sec. 8. The Public Facilities Construction and Finance  
12 Act shall be independent of and in addition to any other provisions  
13 of the laws of the State of Nebraska or provisions of home rule  
14 charters, and bonds may be issued under the act for any purpose  
15 authorized in the act even though other provisions of the laws of  
16 the State of Nebraska or provisions of home rule charters may  
17 provide for the issuance of bonds for the same or similar purposes.  
18 The act shall not be considered amendatory of or limited by any  
19 other provisions of the laws of the State of Nebraska or provisions  
20 of home rule charters, and bonds may be issued under the act  
21 without complying with the restrictions or requirements of any  
22 other provisions of the laws of the State of Nebraska or without  
23 complying with the restrictions or requirements of home rule  
24 charters. Nothing in the act shall prohibit or limit the issuance  
25 of bonds in accordance with the provisions of other applicable laws  
26 of the State of Nebraska or of home rule charters if the governing  
27 body determines to issue such bonds under such other laws or  
1 charter, or otherwise limit the provisions of any home rule  
2 charter.

3 Sec. 9. Section 13-808, Revised Statutes Supplement,  
4 2004, is amended to read:  
5 13-808. (1) Any joint entity may issue such types of  
6 bonds as its governing body may determine subject only to any  
7 agreement with the holders of outstanding bonds, including bonds as  
8 to which the principal and interest are payable exclusively from  
9 all or a portion of the revenue from one or more projects, from one  
10 or more revenue-producing contracts, including securities acquired  
11 from any person, bonds issued by any qualified public agency under  
12 the Public Facilities Construction and Finance Act, or leases made  
13 by the joint entity with any person, including any of those public  
14 agencies which are parties to the agreement creating the joint  
15 entity, or from its revenue generally or which may be additionally  
16 secured by a pledge of any grant, subsidy, or contribution from any  
17 person or a pledge of any income or revenue, funds, or money of the  
18 joint entity from any source whatsoever or a mortgage or security  
19 interest in any real or personal property, commodity, product, or  
20 service or interest therein.  
21 (2) Any bonds issued by such joint entity shall be issued  
22 on behalf of those public agencies which are parties to the  
23 agreement creating such joint entity and shall be authorized to be  
24 issued for the specific purpose or purposes for which the joint  
25 entity has been created. Such specific purposes may include, but  
26 shall not be limited to, joint projects authorized by the Public  
27 Facilities Construction and Finance Act; solid waste collection,  
1 management, and disposal; waste recycling; sanitary sewage  
2 treatment and disposal; public safety communications; correctional  
3 facilities; water treatment plants and distribution systems;  
4 drainage systems; flood control projects; fire protection services;  
5 ground water quality management and control; education and

6 postsecondary education; hospital and other health care services;  
7 bridges, roads, and streets; and law enforcement.

8 (3) As an alternative to issuing bonds for financing  
9 public safety communication projects, any joint entity may enter  
10 into a financing agreement with the Nebraska Investment Finance  
11 Authority for such purpose.

12 (4) Any joint entity formed for purposes of providing or  
13 assisting with the provision of public safety communications may  
14 enter into an agreement with any other joint entity relating to (a)  
15 the operation, maintenance, or management of the property or  
16 facilities of such joint entity or (b) the operation, maintenance,  
17 or management of the property or facilities of such other joint  
18 entity.

19 Sec. 10. Section 13-2530, Revised Statutes Supplement,  
20 2004, is amended to read:

21 13-2530. (1) Any joint public agency may issue such  
22 types of bonds as its board may determine subject only to any  
23 agreement with the holders of outstanding bonds, including bonds as  
24 to which the principal and interest are payable exclusively from  
25 all or a portion of the revenue from one or more projects, from one  
26 or more revenue-producing contracts, including securities acquired  
27 from any person, bonds issued by any qualified public agency under  
1 the Public Facilities Construction and Finance Act, or leases made  
2 by the joint public agency with any person, including any of the  
3 public agencies which are parties to the agreement creating the  
4 joint public agency, or from its revenue generally or which may be  
5 additionally secured by a pledge of any grant, subsidy, or  
6 contribution from any person or a pledge of any income or revenue,  
7 funds, or money of the joint public agency from any source  
8 whatsoever or a mortgage or security interest in any real or  
9 personal property, commodity, product, or service or interest  
10 therein.

11 (2) Any bonds issued by such joint public agency shall be  
12 issued on behalf of the joint public agency solely for the specific  
13 purpose or purposes for which the joint public agency has been  
14 created. Such specific purposes may include, but shall not be  
15 limited to, joint projects authorized by the Public Facilities  
16 Construction and Finance Act; solid waste collection, management,  
17 and disposal; waste recycling; sanitary sewage treatment and  
18 disposal; public safety communications; correctional facilities;  
19 water treatment plants and distribution systems; drainage systems;  
20 flood control projects; fire protection services; ground water  
21 quality management and control; education and postsecondary  
22 education; hospital and other health care services; bridges, roads,  
23 and streets; and law enforcement.

24 (3) As an alternative to issuing bonds for financing  
25 public safety communication projects, any joint public agency may  
26 enter into a financing agreement with the Nebraska Investment  
27 Finance Authority for such purpose.

1 (4) Any joint public agency formed for purposes of  
 2 providing or assisting with the provision of public safety  
 3 communications may enter into an agreement with any other joint  
 4 public agency relating to (a) the operation, maintenance, or  
 5 management of the property or facilities of such joint public  
 6 agency or (b) the operation, maintenance, or management of the  
 7 property or facilities of such other joint public agency.  
 8 Sec. 11. Section 13-2531, Revised Statutes Supplement,  
 9 2004, is amended to read:  
 10 13-2531. Any joint public agency may from time to time  
 11 issue its bonds in such principal amounts as its board determines  
 12 is necessary to provide sufficient funds to carry out any of the  
 13 joint public agency's purposes and powers, including the  
 14 establishment or increase of reserves, the payment of interest  
 15 accrued during construction of a project and for such period  
 16 thereafter as the board may determine, and the payment of all other  
 17 costs or expenses of the joint public agency incident to and  
 18 necessary or convenient to carry out its purposes and powers.  
 19 Except as provided in section 4 of this act, bonds issued for  
 20 purposes of the Public Facilities Construction and Finance Act may  
 21 be issued with no requirement for a vote.  
 22 Sec. 12. If any section in this act or any part of any  
 23 section is declared invalid or unconstitutional, the declaration  
 24 shall not affect the validity or constitutionality of the remaining  
 25 portions.  
 26 Sec. 13. Original sections 13-808, 13-2530, and 13-2531,  
 27 Revised Statutes Supplement, 2004, are repealed."

Senator Flood filed the following amendment to LB 217:  
 AM0605

1 1. Strike original section 14.  
 2 2. On page 2, line 13, strike beginning with "and"  
 3 through "improvements" and all amendments thereto.  
 4 3. Strike beginning with "Governing" on page 2, line 23,  
 5 through "(3)" on page 3, line 12, and all amendments thereto.  
 6 4. On page 3, lines 13 and 28; page 4, lines 5, 9, 12,  
 7 18, and 21; page 5, lines 5, 7, 8, 10, 15, 18, 22, 23, and 24; page  
 8 6, lines 1, 9, 10, 12, 18, and 21; page 7, line 27; and page 9,  
 9 line 14, before the first "public" insert "qualified".  
 10 5. On page 3, strike beginning with "and" in line 17  
 11 through "improvements" in line 18 and all amendments thereto; and  
 12 strike lines 25 and 26 and insert the following new subdivision:  
 13 "(3) Qualified public agency means any city, village,  
 14 municipal county, community college, county, educational service  
 15 unit, rural or suburban fire protection district, hospital  
 16 district, school district, and sanitary and improvement district.".  
 17 6. On page 4, line 14, after "body" insert "of the  
 18 qualified public agency".  
 19 7. On page 5, lines 4 and 8, after "remonstrance" insert  
 20 "petition"; and after line 15 insert the following new subsection:

- 21 "(4) No election shall be required for any qualified  
22 public agency not issuing bonds to participate in such joint  
23 project unless, within thirty days after the governing body of the  
24 qualified public agency adopts the measure approving the interlocal  
1 or cooperative agreement related to the joint project, a  
2 remonstrance petition signed by registered voters of the qualified  
3 public agency equal in number to fifteen percent or more of the  
4 registered voters of the qualified public agency is filed with the  
5 clerk or secretary of the qualified public agency. If a  
6 remonstrance petition with the necessary number of qualified  
7 signatures is timely filed, the question shall be submitted to the  
8 voters of the qualified public agency at a general election or a  
9 special election called for the purpose of approving the interlocal  
10 or cooperative agreement related to the joint project."  
11 8. On page 8, line 10, strike the new matter.  
12 9. On page 9, line 26, strike the new matter.  
13 10. On page 11, line 4, strike "Bonds" and insert  
14 "Except as provided in section 4 of this act, bonds".

Senator Beutler filed the following amendment to LB 501:  
AM0709

- 1 1. On page 2, line 24, after "absent" insert "for all or  
2 part of the first ten working days" and strike "a" and insert "an";  
3 and in line 25 strike "serious".

## ANNOUNCEMENT

Senator Cunningham announced the Business and Labor Committee will meet in Room 1510 on March 14, 2005, and March 15, 2005, instead of Room 2102.

## ATTORNEY GENERAL'S OPINION

### Opinion 05006

DATE: March 8, 2005

SUBJECT: Investment Authority of Cities of the Primary Class to  
Make De Minimis Investments in Federally Regulated  
Funds and Securities Under Applicable State Law

REQUESTED BY: Senator Chris Beutler  
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General  
Fredrick F. Neid, Assistant Attorney General

This is in response to your request for an opinion of this Office relating to the investment authority of cities of the primary class for purposes of investing in equity securities. The specific question you ask is "whether LB 186 is consistent with the Nebraska Constitution to the extent it would permit subdivisions of the state to make de minimus investments in federally regulated funds and securities under applicable state investment guidelines." The legal issue framed by your question is whether the LB 186 amendments to Neb. Rev. Stat. § 15-849 (Cum. Supp. 2004) would constitutionally permit investment of city funds in capital stock and other securities of private corporations or associations.

It is our opinion that the amendatory provisions of LB 186 would not serve to constitutionally authorize nor permit cities of the primary class, subdivisions of the state, to invest city funds in equities, capital stock or other securities of private corporations or associations. Due to the constitutional prohibition of such investments, we believe that amendment of Art. XI, § 1 of the Nebraska Constitution would be necessary to obtain explicit constitutional authority for broader investment of surplus funds of cities of the primary class or other subdivisions of the state.

### BACKGROUND

The question you ask is fact specific and we have based our analysis on the information included in the request letter of January 24, 2005. For purposes of legal analysis, it is critical to know the nature of the funds available for investment. That is, whether the funds to be invested are private or public funds. The constitutional limitation has been held not to apply to purely private funds managed by the state in other jurisdictions having similar constitutional limitations. An example of private funds are college tuition payment programs permitting families to make advance purchases of tuition for students in future years or similar programs. For purposes of this opinion, the funds for investment are considered to be public funds owned by the city or other government subdivision.

We also point out that the Nebraska Constitution establishes broad investment authority for funds of city, police, or fire pension or retirement plans. Article XV, § 17(2) provides that the Legislature may authorize the investment of retirement or pension funds in such manner and in investments as the governing body of the city or political subdivision may determine subject to limits provided by statute.

Briefly described, LB 186 would expand the investment authority of cities of the primary class to invest funds in (1) securities of the United States, the State of Nebraska, a city of the primary class, a county in which such city of the primary class is located, or a school district of such city, (2) securities of municipally owned and operated public utility property and plants, or (3)

such securities in which the state investment officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized guidelines of the Nebraska Investment Council in effect on the date the investment is made.<sup>1</sup> Section 15-849 currently limits investment by the city treasurer to purchases of certificates of deposit of banks, capital stock financial institutions, or qualifying mutual financial institutions selected as depositories of city funds. Other provisions establish bond requirements for safekeeping and payment of deposit amounts. See Neb. Rev. Stat. § 15-845 to 15-848 (Cum. Supp. 2004).

### STATUTORY PROVISIONS AND INVESTMENT GUIDELINES

It is generally established that municipalities hold and exercise their powers subject to legislative control and the legislative authority over the civil, political, and governmental power of municipal corporations is limited by the Federal and State Constitutions. The fiscal and investment authority of state subdivisions is reposed in statute. Neb. Rev. Stat. § 15-845 (Cum. Supp. 2004) requires the treasurer of a city of the primary class to deposit, and at all times keep on deposit in financial institutions, all money received or held by the treasurer. Neb. Rev. Stat. § 15-849 (Cum. Supp. 2004) authorizes the treasurer to purchase certificates of deposit and make time deposits in financial institutions.

Other provisions afford broader investment authority for state subdivisions. Neb. Rev. Stat. § 77-2341 (2003) authorizes cities and other governmental subdivisions, except school districts, to invest its surplus funds in any securities in which the state investment officer is authorized to invest in.<sup>2</sup> Section 77-2341 in relevant part states:

(1) Whenever any county, city, village, or other governmental subdivision, other than a school district, of the State of Nebraska has accumulated a surplus of any fund in excess of its current needs... the governing body of such county, city, village, or other governmental subdivision may invest any such surplus in excess of current needs... in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. The state investment officer shall upon request furnish a copy of current authorized investment guidelines of the Nebraska Investment Council.

The State Investment Officer has broad investment authority subject to the "prudent man standard" under the direction of the Nebraska Investment Council. Neb. Rev. Stat. § 72-1246 (2003) in particular part states that "[t]he state investment officer shall invest in investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in

dealing with the property of another..." For purposes of providing direction and guidelines for investment of funds by the State Investment Officer as well as for political subdivisions, the Nebraska Investment Council has adopted strategies set forth in Investment Policy Statements. Various policy statements are in place for different categories of funds available for investment by the State Investment Officer. For example, policy statements have been adopted that establish specific investment guidelines for each of the retirement plans under the administration of the Public Employees Retirement Board and for other state funds including the Operating Investment Pool and the Health Care Endowment Fund.

Importantly, the Nebraska Investment Council has adopted a policy applicable to governmental subdivisions, NEBRASKA INVESTMENT COUNCIL POLICY FOR POLITICAL SUBDIVISIONS. The policy statement includes the following recitals:

The State of Nebraska Constitution explicitly prohibits subscription to stock by political subdivisions in Article XI. The statutes of the Legislature and significant precedent from State court decisions provide a distinction between the retirement funds of a political subdivision and the non-retirement funds of a political subdivision. The activity of the Legislature and the court system leads to the situation that the retirement funds of political subdivisions can own stock and the non-retirement funds of political subdivisions cannot. Thus, this policy distinguishes between retirement funds and non-retirement funds.

NEBRASKA INVESTMENT COUNCIL POLICY FOR POLITICAL SUBDIVISIONS, at 1, adopted January 28, 2003, amended September 27, 2004. (emphasis added).

Accordingly, the investment guidelines of the state investment officer set forth in the policy statement applicable to political subdivisions do not serve to authorize investment by government subdivisions in equity or other interests of private corporations or associations.

### CONSTITUTIONAL LIMITATIONS

The constitutional prohibition regarding ownership of stock applicable to governmental subdivisions of the State is set forth in Art. XI, § 1 of the Nebraska Constitution which states:

No city, county, town, precinct, municipality, or other subdivision of the estate, shall ever become a subscriber of the capital stock, or owner of such stock, or any portion or interest therein of any railroad, or private corporation, or association.

The prohibition has been applied by the Nebraska Supreme Court to preclude investment by state subdivisions in stock or other ownership interests of private corporations or associations. In Nebraska League of

Savings and Loan Assns. v. Mathes, 201 Neb. 122, 266 N.W.2d 720 (1978), the Court considered whether the constitutional limitation prohibited political subdivisions from depositing funds in mutual savings and loan associations. The Court concluded that the constitutional provision barred the deposit of funds by subdivisions of the State of Nebraska in mutual savings and loan associations, whether federal or state chartered, except those funds authorized under Art. XV, § 17(2) of the Nebraska Constitution. In reaching this conclusion, the Court reasoned:

The historical background warrants the conclusion that the constitutional provision was directed against the acquisition by a subdivision of the state of any ownership or proprietary interest in a private corporation or association...

Id. at 129, 266 N.W.2d at 724.

The holding of the Nebraska Supreme Court in Nebraska League of Savings and Loan Assns. is consistent with decisions in other jurisdictions having similar constitutional limitations. See Michigan Savings & Loan League v. Municipal Finance Commission of the State of Michigan, 247 Mich. 311, 79 N.W.2d 590 (1956) (statute authorizing investment of school district funds in building and loan or savings and loan associations is invalid under constitutional prohibitions of subscription to corporate stock). In West Virginia State v. West Virginia Board of Investments, 194 W. Va. 143, 459 S.E.2d 531 (1995), the Supreme Court of Appeals of West Virginia found that trust funds in a consolidated pension fund representing money of Public Employees Retirement System were state funds subject to the constitutional prohibition on state ownership of corporate stocks. In West Virginia State, the state constitution provided that the State shall not become a joint owner or stockholder in any company or association in the state or elsewhere. The West Virginia Court stated:

The clear language of Article X, section six itself stands as a bar to state ownership of corporate stocks. This result is compelled by virtue of the fact that Article X, section six is written as an unconditional proscription of the State's investment in stock of any company or association.

Id. at 149, 459 S.E.2d at 537.

The Court of Appeals of Oregon, in ICMA Retirement Corp. v. Executive Department, 92 Or. App. 188, 757 P.2d 868, review denied, 306 Or. 661, 763 P.2d 152 (1988), held the constitutional prohibition against state's purchase of corporate stock barred investment of employees' deferred compensation in a trust plan. The courts reasoned that the state would have a proprietary or ownership interest in the deferred compensation money that would be invested in the trust plan and thereby barred.<sup>5</sup>

However, the cases reach the opposite conclusion if it is determined that

the funds for investment are not owned by the government or the governmental entity has no proprietary interest in the funds. In *Sprague v. Staub*, 205 Or. 507, 451 P.2d 49 (1969), the Supreme Court of Oregon held that an industrial accident commission fund and employees' retirement fund were trust funds which state treasurer held only as custodian and the state had no interest in the funds that would prohibit funds from being invested in stock of corporation pursuant to statutory authorization.

In reaching this conclusion the Court stated:

We are of the opinion that the people intended the prohibition in Article XI, § 6 to apply only to funds owned by the state and not to funds which the state has expended and for which the state has received a quid pro quo, as it does, when it receives coverage for its employees through its contributions as employers to these funds.

Id. at 524, 451 P.2d at 58.

Thus, a distinction is made by the courts with respect to whether the funds for investment are public funds, that is, owned by the governmental subdivision. If the funds are private or the governmental subdivision has no proprietary interest, the courts generally have concluded that the constitutional limitation does not apply.

#### PUBLIC PURPOSE OR USE

It is long established in Nebraska and in other jurisdictions that the constitutional prohibitions regarding subscription to or purchase of capital stock of private corporations were not intended to prevent governmental subdivisions from acquiring property for public use. In *State ex rel. Johnson v. Consumers Public Power District*, 143 Neb. 753, 10 N.W.2d 784 (1943), the Nebraska Supreme Court concluded that a subdivision may acquire stock to acquire physical property for a defined public purpose and stated:

This provision of our Constitution must be construed with reference to the evils it was intended to correct or prevent. It was intended to prohibit any subdivision of the state from entering into private business by being associated as a stockholder, or by being a partner, or a part owner, in a private business venture or enterprise... Section 1, Article XI of our constitution was never intended to prohibit a purchase by a subdivision of the state of all the capital stock of a corporation solely for the purpose of lawfully acquiring the physical property of such corporation for a public use, constitutionally defined and lawfully authorized by the legislature.

Id. at 766, 767, 10 N.W.2d at 794. (emphasis added).

The LB 186 amendments do not purport to authorize the purchase of stock to enable a city of the primary class to acquire physical property for a

defined public purpose. Rather, the amendments would broaden the authority of cities to invest in equities and thereby become a stockholder or part owner in a private business enterprise. We believe the LB 186 amendments would be narrowly construed by a court to preclude such investments in private entities consistent with the constitutional limitation set forth in Art. XI, § 1.

### OTHER AUTHORITIES

This office previously addressed the question whether the surplus funds of a county hospital may be invested in mutual funds comprised of U.S. Government Securities and obligations. In Neb. Op. Att'y Gen. No. 95041 (May 17, 1995) we concluded that it was generally permissible for a county to invest surplus funds in mutual funds comprised solely of U.S. Government obligations but, that the organization and prospectus of the investment company would have to be carefully examined to insure that the political subdivision was not acquiring an interest in the investment company. In the opinion, we commented, "[t]he Constitution's language certainly prohibits a county from investing in a mutual fund when the portfolio includes stock, but it does not specifically address the issue of mutual funds solely comprised of U.S. Government Obligations." Id. at 3. It was also concluded that an amendment to Art. XI, § 1 specifying that investment in management investment portfolios limited to U.S. Government securities would be required to remove the uncertainty due to the constitutional basis for the potential prohibition of such investments.

Other states' Attorneys General have addressed similar issues. An opinion of the Louisiana Attorney General concluded that Louisiana statutes allowing excess funds of political subdivisions to be invested in money market mutual funds were unconstitutional.<sup>4</sup> See 88 La. Op. Att'y Gen. No. 546 (1988). And, an opinion of the Arkansas Attorney General considered the question whether the Department of Corrections can purchase membership in a "cotton gin cooperative" which is capitalized with common stock. The Department would become a shareholder by buying stock in the cooperative and become a voting member. Arkansas Constitution, Art. 12, § 7 provided, "...the State shall never become a stockholder, or subscribe to, or be interested in, the stock of any corporation or association." The Arkansas Attorney General concluded that, "...under the plain language of our constitution, that the Department's purchase of the stock in the association would therefore be unconstitutional." Ark. Op. Att'y Gen. No. 95-035 (February 21, 1995).

The Washington Attorney General has had occasion to thoroughly analyze and consider the issue whether it is consistent with the state constitution for the state investment board to use its statutory authority to purchase stocks and other corporate equities as part of its investment of funds in the advanced college tuition account. The Attorney General of Washington concluded that the state constitution limits the state with regard to the investment of state funds but the limitations have not been held to

apply to purely private funds managed by the state. See Wash. Op. Att'y Gen. No. 05 (July 5, 2000).

In so concluding, the opinion stated:

The first question is whether the funds to be invested in connection with the advanced college tuition program are public or private funds. If public funds are involved, the plain language of the constitutional provisions cited appears to prohibit the investment of such funds in corporate stocks or similar equities, since the result will quite clearly give the state an interest in the stocks of private corporations.

Id. at 4.

Lastly, the Washington Attorney General observed:

We took a cautious view in AGO 1984 No. 22, suggesting that a further constitutional amendment was the safest way to establish broader investment authority for industrial insurance funds. (footnote omitted). Past legislatures have clarified their authority by obtaining explicit constitutional authority for broader investment of pension funds and industrial insurance funds. (footnote omitted). A similar amendment would remove all doubt with regard to the investment of the advanced college tuition program, but may prove to be unnecessary if the courts agree with this analysis.

Id. at 6.

We have also reviewed the opinion of the Colorado Attorney General you referenced in your request letter. In Col. Op. Att'y Gen. No. OAG 8600818 (March 10, 1986) the questions whether existing provisions of Colorado constitutional and statutory law authorize the state treasurer to invest funds in a real limited partnership were addressed. The Attorney General concluded that present statutes do not authorize such investments and that the application of relevant constitutional provisions would depend upon whether the statutory scheme serves a sufficient public purpose. In summary, the opinion stated, "I am unable at this time to form an opinion whether future legislation authorizing an investment would be constitutional. In order to satisfy constitutional restrictions, such legislation would have to narrowly demonstrate a discrete and particularized public purpose which would preponderate over any private interests incidentally served." Id. at 6.

We think the Colorado opinion is of limited assistance since it concluded that the proposed investments would exceed existing statutory authority and a conclusive opinion was not rendered concerning whether the constitutional provisions precluded the General Assembly from enacting legislation authorizing investment of public funds in a limited partnership.

The predominant view of the states attorneys general is that investment of public funds in capital stock or other equity interests of private businesses is violative of state constitutional limitations; except in circumstances where the acquisition of stock or other ownership interests is necessary to acquire property for a public use or purpose. And, it is the consensus view that constitutional amendment is necessary to remove any question of application of the constitutional prohibition, even where the funds to be invested by the government subdivisions are private.

### DE MINIMUS INVESTMENTS

Your question has been posed in the context of a government subdivision making "de minimus" investments in federally regulated funds and securities under applicable state investment guidelines. Information included in your request letter reflect that de minimus investments are those comprising "no more than 1% or 2%" of a particular entity's securities. We have found no case or other authority that has analyzed or decided the constitutional issue based on the percentage of ownership of the outstanding stock or capital of a private company purchased for investment.

We point out, however, that the constitutional prohibition is not aimed at control of a private concern but rather participating as an owner. The Nebraska Supreme Court's holding in *State ex rel Johnson v. Consumers Public Power District* reflects the view that purchase of a majority if not all of the capital stock of a private company to acquire physical property for public use does not fall within the constitutional prohibition. Thus, this line of authority suggests that purchases of lesser stock holdings, not for the purpose of acquiring physical property for public use, but rather for investment would be violative of the constitutional prohibition barring a government subdivision from being associated with a private company as a shareholder.

### SUMMARY

The case law and other authorities generally concur that government subdivisions are precluded from investing in corporate stocks and equities of private companies and associations under constitutional limitations prohibiting such ownership. For the most part, the courts have held that such constitutional limitations are not applicable to private funds or funds not owned by the governmental subdivision. The question whether the specific funds available for investment are public or private is complex and the courts may diverge on this issue.

For these reasons, it is our opinion that the LB 186 amendments are not consistent with the Nebraska Constitution to the extent it would permit subdivisions of the State to invest in stocks and bonds of private companies, associations, or corporations. We believe explicit constitutional authority is necessary for broader investment of surplus public funds of state subdivisions in capital stock and other equity ownership interests in private

corporations and associations.

<sup>1</sup>The amendments of LB 186 do not serve to expand the investment authority of cities of the primary class because cities of the primary class and other subdivisions of the state, except school districts, already possess the investment authority provided by the LB 186 amendments. See Neb. Rev. Stat. § 77-2341 (2003).

<sup>2</sup>Similar authority is included for cities of the metropolitan class in Neb. Rev. Stat. § 14-563 (Cum. Supp. 2004).

<sup>3</sup>In ICMA Retirement Corp., it was argued that the state, even if technically the beneficial owner of the fund, may transfer the fund to a trustee to invest in corporate stocks. The Court disagreed and stated, "That argument ignores the basic requirement that the state cannot purchase stock with money it owns, which is precisely what it would do here." Id. 92 Or. App. 193, 757 P.2d 871.

<sup>4</sup>Article VII, § 14 of the Louisiana Constitution includes similar language to Art. XI, § 1 of the Nebraska Constitution. The Louisiana Constitution provision states in part, "Neither the state nor a political subdivision of a state shall subscribe to or purchase the stock of a corporation or association..."

Sincerely,  
JON BRUNING  
Attorney General  
(Signed) Fredrick F. Neid  
Assistant Attorney General

21-152-24

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Price asked unanimous consent to have her name added as cointroducer to LBs 55, 299, 306, 320, 396, 406, 475, and 476. No objections. So ordered.

Senator Schimek asked unanimous consent to have her name added as cointroducer to LB 577. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 16 eighth-grade students and teacher from St. Mary's School, Lincoln; Steve Rempe from Grand Island; Delegation from Argentina Churches; 15 seniors and teacher from Greely-Wolbach High School government class; and Brad and Paula Kihlthau from Scottsbluff.

**ADJOURNMENT**

At 12:00 p.m., on a motion by Senator McDonald, the Legislature adjourned until 9:00 a.m., Wednesday, March 9, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**FORTIETH DAY - MARCH 9, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**FORTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, March 9, 2005

**PRAYER**

The prayer was offered by Pastor Peggy Cooper, Presbyterian Church of Tecumseh.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Engel who was excused; and Senators Bourne, Brown, Chambers, Cornett, Kremer, Landis, Mines, and Raikes who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the thirty-ninth day was approved.

**SELECT COMMITTEE REPORTS  
Enrollment and Review**

**LEGISLATIVE BILL 9.** Placed on Select File.

**LEGISLATIVE BILL 55.** Placed on Select File as amended.  
E & R amendment to LB 55:  
AM7037

- 1 1. On page 1, line 4, strike "and"; and in line 5 after
- 2 "sections" insert "; and to declare an emergency".

**LEGISLATIVE BILL 450.** Placed on Select File.

**LEGISLATIVE BILL 247.** Placed on Select File.

**LEGISLATIVE BILL 544.** Placed on Select File.

**LEGISLATIVE BILL 122.** Placed on Select File as amended.  
E & R amendment to LB 122:  
AM7038

- 1 1. On page 1, line 3, strike "and a registry".

**LEGISLATIVE BILL 471.** Placed on Select File.

**LEGISLATIVE BILL 105.** Placed on Select File.

**LEGISLATIVE BILL 360.** Placed on Select File.

**LEGISLATIVE BILL 362.** Placed on Select File.

**LEGISLATIVE BILL 363.** Placed on Select File.

**LEGISLATIVE BILL 402.** Placed on Select File.

**LEGISLATIVE BILL 648.** Placed on Select File.

**LEGISLATIVE BILL 649.** Placed on Select File.

**LEGISLATIVE BILL 650.** Placed on Select File.

**LEGISLATIVE BILL 115.** Placed on Select File as amended.

E & R amendment to LB 115:

AM7036

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 81-1403, Revised Statutes
- 4 Supplement, 2004, is amended to read:
- 5 81-1403. Subject to review and approval by the
- 6 commission, the council shall:
- 7 (1) Adopt and promulgate rules and regulations for law
- 8 enforcement pre-certification, certification, continuing education,
- 9 and training requirements. Such rules and regulations may include
- 10 the authority to impose a fine on any individual, political
- 11 subdivision, or agency who or which violates such rules and
- 12 regulations. The fine for each separate violation of any rule or
- 13 regulation shall not exceed either (a) a one-time maximum fine of
- 14 five hundred dollars or (b) a maximum fine of one hundred dollars
- 15 per day until the individual, political subdivision, or agency
- 16 complies with such rules or regulations. All fines collected
- 17 pursuant to this subdivision shall be remitted to the State
- 18 Treasurer for credit to the permanent school fund;
- 19 (2) Adopt and promulgate rules and regulations for the
- 20 operation of the training center;
- 21 (3) Recommend to the commission the names of persons to
- 22 be appointed to the position of director of the training center,
- 23 delegate appropriate powers and duties to and provide direct
- 24 supervision of the director, and when warranted recommend to the
- 1 commission that the director be removed for cause;
- 2 (4) Establish requirements for satisfactory completion of
- 3 pre-certification programs, certification programs, and advanced
- 4 training programs;
- 5 (5) Issue certificates or diplomas attesting satisfactory
- 6 completion of pre-certification programs, certification programs,
- 7 and advanced training programs;
- 8 (6) Revoke or suspend such certificates or diplomas
- 9 according to rules and regulations established by the council for
- 10 reasons which shall include, but not be limited to, (a)
- 11 incompetence, (b) neglect of duty, and (c) physical, mental, or

12 emotional incapacity, and (d) final conviction of or pleading  
13 guilty or nolo contendere to a felony. The rules and regulations  
14 shall provide for revocation of a certificate holder's certificate  
15 without a hearing upon his or her final conviction of or pleading  
16 guilty or nolo contendere to a felony. For purposes of this  
17 subdivision, felony means a crime punishable by imprisonment for a  
18 term of more than one year or a crime committed outside of Nebraska  
19 which would be punishable by imprisonment for a term of more than  
20 one year if committed in Nebraska. The - Such rules and  
21 regulations shall include a procedure for hearing appeals of any  
22 person who feels that the revocation or suspension of his or her  
23 certificate or diploma was in error;

24 (7) Set the tuition and fees for the training center and  
25 all officers of other training academies not employed by that  
26 training academy's agency. The tuition and fees set for the  
27 training center pursuant to this subdivision shall be adjusted  
1 annually pursuant to the training center budget approved by the  
2 Legislature. All other tuition and fees shall be set in order to  
3 cover the costs of administering sections 81-1401 to 81-1414. All  
4 tuition and fees shall be remitted to the State Treasurer for  
5 credit to the Nebraska Law Enforcement Training Center Cash Fund;

6 (8) Annually certify any training academies providing a  
7 basic course of law enforcement training which complies with the  
8 qualifications and standards promulgated by the council and  
9 offering training that meets or exceeds training that is offered by  
10 the training center. The council shall set the maximum and minimum  
11 applicant enrollment figures for training academies training  
12 non-agency officers;

13 (9) Extend the programs of the training center throughout  
14 the state on a regional basis;

15 (10) Establish the qualifications and standards and  
16 provide the training required by section 81-1439; and

17 (11) Do all things necessary to carry out the purpose of  
18 the training center, except that functional authority for budget  
19 and personnel matters shall remain with the commission.

20 Any administrative fine imposed under this section shall  
21 constitute a debt to the State of Nebraska which may be collected  
22 by lien foreclosure or sued for and recovered in any proper form of  
23 action by the office of the Attorney General in the name of the  
24 State of Nebraska in the district court of the county where the  
25 final agency action was taken. All fines imposed by the council  
26 shall be remitted to the State Treasurer for credit to the  
27 permanent school fund.

1 Sec. 2. Original section 81-1403, Revised Statutes  
2 Supplement, 2004, is repealed."

(Signed) Michael Flood, Chairperson

**STANDING COMMITTEE REPORTS**  
**Revenue**

**LEGISLATIVE BILL 172.** Indefinitely postponed.  
**LEGISLATIVE BILL 224.** Indefinitely postponed.  
**LEGISLATIVE BILL 413.** Indefinitely postponed.  
**LEGISLATIVE BILL 417.** Indefinitely postponed.  
**LEGISLATIVE BILL 448.** Indefinitely postponed.  
**LEGISLATIVE BILL 571.** Indefinitely postponed.  
**LEGISLATIVE BILL 575.** Indefinitely postponed.  
**LEGISLATIVE BILL 576.** Indefinitely postponed.  
**LEGISLATIVE BILL 600.** Indefinitely postponed.  
**LEGISLATIVE BILL 607.** Indefinitely postponed.  
**LEGISLATIVE BILL 610.** Indefinitely postponed.  
**LEGISLATIVE BILL 612.** Indefinitely postponed.  
**LEGISLATIVE BILL 628.** Indefinitely postponed.  
**LEGISLATIVE BILL 646.** Indefinitely postponed.  
**LEGISLATIVE BILL 692.** Indefinitely postponed.  
**LEGISLATIVE BILL 699.** Indefinitely postponed.

(Signed) David Landis, Chairperson

**Health and Human Services**

**LEGISLATIVE BILL 547.** Indefinitely postponed.  
**LEGISLATIVE BILL 569.** Indefinitely postponed.

(Signed) Jim Jensen, Chairperson

**ANNOUNCEMENTS**

Senator Combs designates LB 454 as her priority bill.

The Transportation and Telecommunications Committee designates LB 343 as its priority bill.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 51.** Introduced by Engel, 17.

WHEREAS, the South Sioux City girls' basketball team is the champion of the 2005 Class B Girls' State Basketball Tournament, repeating its championship successes of 1995, 1996, 1997, 1998, 2000, 2001, 2002, 2003, and 2004; and

WHEREAS, the 57-45 win over the talented Beatrice team in the final game capped the Lady Cardinals' Class B Girls' State Basketball Championship; and

WHEREAS, the South Sioux City girls' basketball team, guided by Head Coach Kelly Flynn, captured its sixth straight Class B title and 10th in the

last 11 years;

WHEREAS, throughout the year the South Sioux City Lady Cardinals have complemented their talents with the characteristics of sportswomanship, determination, and diligence; and

WHEREAS, the South Sioux City Lady Cardinals are positive role models for young athletes in the community and throughout the region; and

WHEREAS, such a team achievement is made possible not only by individual members' performance and coaching guidance, but also through the support of teachers, administrators, and parents.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes and congratulates the South Sioux City Lady Cardinals basketball team and its coaches, parents, and supporters.

2. That a copy of this resolution be sent to Kelly Flynn, head coach of the South Sioux City Lady Cardinals basketball team.

Laid over.

**LEGISLATIVE RESOLUTION 52.** Introduced by Stuthman, 22.

WHEREAS, the Humphrey St. Francis girls' basketball team won the Class D-1 Girls' State High School Basketball Championship with a sixty-two to forty-eight victory over Freeman; and

WHEREAS, the Flyers won twenty-three of twenty-five games played this season; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Humphrey St. Francis High School girls' basketball team be congratulated for their exemplary effort this season and in the Girls' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Coach Bryan Reichmuth and the Humphrey St. Francis High School.

Laid over.

**MESSAGES FROM THE GOVERNOR**

March 4, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individuals were appointed to the Commission for the Deaf and Hard of Hearing.

**APPOINTEES:**

Michael J. Carruthers, 111 S Minden Avenue, Minden NE 68959  
Mary Ann Burke, 1206 Willow Avenue, Bellevue NE 68005

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/  
Enclosure

March 7, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed to the Rural Health Advisory Commission.

**APPOINTEE:**

Dr. Steven Dokken, 442 G Street, Pawnee City NE 68420

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/  
Enclosure

**GENERAL FILE**

**LEGISLATIVE BILL 503A.** Title read. Considered.

**SPEAKER BRASHEAR PRESIDING**

Advanced to E & R for review with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

### **RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR 47 was adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 47.

### **GENERAL FILE**

**LEGISLATIVE BILL 306A.** Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 14 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 44.** The Standing Committee amendment, AM0248, found on page 440 and considered on page 676, was renewed.

Senator Redfield offered the following amendment to the Standing Committee amendment:

AM0711

(Amendments to Standing Committee amendments, AM0248)

- 1 1. Strike the original amendments and insert the
- 2 following new amendment:
- 3 "1. On page 4, lines 27 and 28, strike 'six thousand'
- 4 and insert 'eight thousand two hundred fifty'."

Pending.

### **SPECIAL COMMITTEE REPORT** **Executive Board**

**LEGISLATIVE RESOLUTION 12CA.** Placed on General File as amended.

Special Committee amendment to LR 12CA:

AM0721

- 1 1. On page 2, strike beginning with the comma in line 12
- 2 through line 14, show as stricken, and insert an underscored
- 3 period; and in line 20 after "dollars" insert "and to eliminate a
- 4 provision relating to compensation of employees of the
- 5 Legislature".

(Signed) L. Patrick Engel, Chairperson

**STANDING COMMITTEE REPORTS**  
**Urban Affairs**

**LEGISLATIVE BILL 518.** Indefinitely postponed.

**LEGISLATIVE BILL 629.** Indefinitely postponed.

**LEGISLATIVE BILL 651.** Indefinitely postponed.

(Signed) Mike Friend, Chairperson

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**LEGISLATIVE BILL 342.** Placed on Select File.

**LEGISLATIVE BILL 640.** Placed on Select File.

**LEGISLATIVE BILL 291.** Placed on Select File.

**LEGISLATIVE BILL 406.** Placed on Select File.

**LEGISLATIVE BILL 241.** Placed on Select File.

**LEGISLATIVE BILL 97.** Placed on Select File.

**LEGISLATIVE BILL 451.** Placed on Select File as amended.

E & R amendment to LB 451:

AM7039

- 1 1. On page 5, line 5, strike "(7)".

**LEGISLATIVE BILL 525.** Placed on Select File.

**LEGISLATIVE BILL 201.** Placed on Select File.

**LEGISLATIVE BILL 647.** Placed on Select File as amended.

E & R amendment to LB 647:

AM7049

- 1 1. On page 1, line 2, strike "sections 21-2601 and  
2 21-2634" and insert "section 21-2601"; in line 4 strike "to change  
3 filing fee provisions;"; and in line 6 strike "sections" and insert  
4 "section".

**LEGISLATIVE BILL 676.** Placed on Select File.

**LEGISLATIVE BILL 528.** Placed on Select File.

(Signed) Michael Flood, Chairperson

**REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

Burke, Mary Ann - Commission for the Deaf and Hard of Hearing - Health and Human Services

Carruthers, Michael J. - Commission for the Deaf and Hard of Hearing - Health and Human Services

Dokken, Steven - Rural Health Advisory Commission - Health and Human Services

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

### **ANNOUNCEMENT**

The Executive Board designates LR 12CA as its priority resolution.

### **MESSAGES FROM THE GOVERNOR**

March 9, 2005

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 1, 2, 3, 11, 15e, 16e, 17, 18, 20e, 21e, 33, 37e, 51, 52, 54e, 59, 61e, 80, 83e, 88, 89, 118, 119, 162, 175, 176, 216, 261, 263e, 283, 301e, 329, and 383e were received in my office on March 3, 2005.

These bills were signed and delivered to the Secretary of State on March 9, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

March 9, 2005

Mr. President, Mr. Speaker, and  
Members of the Legislature  
State Capitol  
Lincoln, NE 68509

Dear Mr. President and Members of the Legislature:

I am returning LB 53 without my signature and with my objections.

This legislation would automatically restore voting rights to any convicted felon two years after completion of the felon's criminal sentence. I believe that the automatic mechanism set forth in LB 53 is unwise public policy and constitutionally suspect.

Article VI, Section 2 of the Nebraska Constitution mandates that "[n]o person shall be qualified to vote who ... has been convicted of ... a felony under the laws of the state or of the United States, unless restored to civil rights." This has been a provision in our Constitution since 1875.

I firmly believe that any restoration of voting rights should be considered thoughtfully on a case-by-case basis - which is precisely what occurs under our state's current constitutional process. The Nebraska Board of Pardons reviews a felon's request for his or her voting right to be restored by carefully weighing the nature and degree of the felon's crime or crimes, his or her behavior following release from prison, and the interests of the felon's victims. In my view, it is in the best interest of Nebraska's citizens, and consistent with their views as expressed in our Constitution, to have the Nebraska Board of Pardons continue to make the important decision on whether to restore this civil right on a case-by-case basis.

Currently, the Board is exploring the possibility of restoring voting rights to felons through an administrative process that would abbreviate the existing Board practice. I ask the Legislature to reconsider its decision on this substantial public policy question and to vest the continued responsibility for this matter with the Nebraska Board of Pardons.

For these reasons, I respectfully urge you to sustain my veto of LB 53.

Sincerely,  
(Signed) Dave Heineman  
Governor

### GENERAL FILE

**LEGISLATIVE BILL 44.** The Redfield pending amendment, AM0711, found in this day's Journal, to the Standing Committee amendment, was renewed.

Senator Redfield moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

The Redfield amendment was adopted with 28 ayes, 1 nay, 17 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

The Standing Committee amendment, AM0248, found on page 440 and considered on page 676 and in this day's Journal, as amended, was renewed.

The Standing Committee amendment, as amended, was adopted with 25 ayes, 2 nays, 19 present and not voting, and 3 excused and not voting.

Senator Redfield moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Failed to advance to E & R for review with 7 ayes, 30 nays, 9 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 217.** Title read. Considered.

The Standing Committee amendment, AM0278, found on page 441, was considered.

**SENATOR JANSSEN PRESIDING**

**SENATOR CUDABACK PRESIDING**

Senator Smith moved the previous question. The question is, "Shall the debate now close?"

Senator Flood moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Senator Chambers requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 31:

Baker	Cornett	Janssen	Mines	Stuthman
Brashear	Cunningham	Jensen	Pahls	Synowiecki
Brown	Erdman	Johnson	Pedersen, Dw.	Thompson
Burling	Fischer	Kremer	Pederson, D.	
Byars	Flood	Kruse	Raikes	
Combs	Heidemann	Langemeier	Smith	
Connealy	Hudkins	Louden	Stuhr	

Voting in the negative, 7:

Chambers	Kopplin	Preister	Wehrbein
Howard	McDonald	Redfield	

Present and not voting, 8:

Aguilar	Bourne	Friend	Schimek
Beutler	Cudaback	Price	Schrock

Excused and not voting, 3:

Engel	Foley	Landis
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The motion to cease debate prevailed with 31 ayes, 7 nays, 8 present and not voting, and 3 excused and not voting.

The Standing Committee amendment was adopted with 42 ayes, 1 nay, 4 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Pending.

## STANDING COMMITTEE REPORTS

### Education

**LEGISLATIVE BILL 326.** Placed on General File.

**LEGISLATIVE BILL 47.** Placed on General File as amended.

Standing Committee amendment to LB 47:

AM0724

- 1 1. On page 2, line 12, strike "Beginning" through
- 2 "shall" and insert "It is the intent of the Legislature to"; and in
- 3 line 13 after "year" insert ", beginning with FY2005-06,".

**LEGISLATIVE BILL 579.** Placed on General File as amended.

Standing Committee amendment to LB 579:

AM0525

- 1 1. Insert the following new sections:
- 2 "Sec. 17. Section 79-809, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 79-809. In addition to the requirements in section
- 5 79-808, the maximum which the board may require for the issuance of
- 6 any entry-level certificate or permit shall be that the applicant
- 7 (1) has a baccalaureate degree that qualifies for a certificate to
- 8 teach, (2) has satisfactorily completed, within two years of the
- 9 date of application, an approved program at a standard institution
- 10 of higher education, (3) has satisfactorily demonstrated basic
- 11 skills competency, (4) has special education training, (5) has
- 12 earned college credit in an approved program, at a standard
- 13 institution of higher education, for which endorsement is sought,
- 14 and (6) has paid a nonrefundable fee to the department of up to
- 15 ~~forty-five~~ fifty-five dollars for issuance of a certificate or
- 16 permit valid in all schools or up to ~~thirty~~ forty dollars for
- 17 issuance of a certificate or permit valid only in nonpublic
- 18 schools.
- 19 Sec. 18. Section 79-810, Reissue Revised Statutes of
- 20 Nebraska, is amended to read:
- 21 79-810. (1) Certificates and permits shall be issued by
- 22 the commissioner upon application on forms prescribed and provided
- 23 by him or her which shall include the applicant's social security
- 24 number.

- 1 (2) Each certificate or permit issued by the commissioner  
 2 shall indicate the area of authorization to teach, provide special  
 3 services, or administer and any areas of endorsement for which the  
 4 holder qualifies. During the term of any certificate or permit  
 5 issued by the commissioner, additional endorsements may be made on  
 6 the certificate or permit if the holder submits an application,  
 7 meets the requirements for issuance of the additional endorsements,  
 8 and pays a nonrefundable fee of thirty dollars.
- 9 (3) The Certification Fund is created. Any fee received  
 10 by the department under sections 79-806 to 79-815 shall be remitted  
 11 to the State Treasurer for credit to the fund. The fund shall be  
 12 used by the department in paying the costs of certifying educators  
 13 pursuant to such sections and to carry out subsection (3) of  
 14 section 79-808, except that thirteen dollars of the  
 15 ~~forty-five dollar~~ fifty-five-dollar fee specified in subdivision  
 16 (6) of section 79-809 for certificates or permits valid in all  
 17 schools shall be credited to the Professional Practices Commission  
 18 Fund which is created for use by the department to pay for the  
 19 provisions of sections 79-859 to 79-871. Any money in the  
 20 Certification Fund or the Professional Practices Commission Fund  
 21 available for investment shall be invested by the state investment  
 22 officer pursuant to the Nebraska Capital Expansion Act and the  
 23 Nebraska State Funds Investment Act. ~~The State Treasurer shall~~  
 24 ~~transfer any money in the Teachers' Certification Fund on May 27,~~  
 25 ~~2003, to the Certification Fund on such date."~~
- 26 2. On page 49, strike beginning with "one" in line 11  
 27 through "as" in line 12, show the old matter as stricken, and  
 1 insert "five years unless a lesser number of years is"; and strike  
 2 beginning with "one" in line 17 through "as" in line 18, show the  
 3 old matter as stricken, and insert "five years or the number of  
 4 years".
- 5 3. On page 62, line 25, strike the second comma and show  
 6 as stricken; and in line 26 after "teachers" insert an underscored  
 7 comma.
- 8 4. Amend the repealer and renumber the remaining  
 9 sections accordingly.

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

M. Jane Keller - Board of Educational Lands and Funds

VOTE: Aye: Senators Bourne, Byars, Howard, Kopplin, McDonald, Raikes, Schrock, and Stuhr. Nay: None. Absent: None.

(Signed) Ron Raikes, Chairperson

**MOTION - Print in Journal**

Senator Schimek filed the following motion to LB 53:

That LB 53 becomes law notwithstanding the objections of the Governor.

**ANNOUNCEMENTS**

The Business and Labor Committee designates LB 739 as its priority bill.

Senator Schrock designates LR 8CA as his priority resolution.

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 675A.** Introduced by Langemeier, 23.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 675, Ninety-ninth Legislature, First Session, 2005.

**AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 217:  
AM0726

(Amendments to AM0614)

- 1 1. On page 3, line 26, strike "registered voters of the
- 2 qualified public agency" and insert "number of votes cast for
- 3 Governor at the general election next preceding the adoption of the
- 4 bond measure".
- 5 2. On page 4, line 16, strike "registered voters of the
- 6 qualified public agency" and insert "number of votes cast for
- 7 Governor at the general election next preceding the approval of the
- 8 interlocal or cooperative agreement".

Senator Beutler filed the following amendment to LB 217:  
FA78

Amend AM0614

On page 2, line 5 after "control" add "any storm water drainage,"

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**LEGISLATIVE BILL 626.** Placed on Select File.

**LEGISLATIVE BILL 639.** Placed on Select File as amended.  
E & R amendment to LB 639:  
AM7050

- 1 1. On page 10, line 20, strike "Sec. 2." and insert
- 2 "Sec. 3."

**LEGISLATIVE BILL 306.** Placed on Select File.

**LEGISLATIVE BILL 259.** Placed on Select File as amended.

E & R amendment to LB 259:

AM7051

- 1 1. On page 1, strike beginning with "amend" in line 1
- 2 through line 4 and insert "create a work group; to provide duties;
- 3 to provide a termination date; and to declare an emergency."

**LEGISLATIVE BILL 476.** Placed on Select File as amended.

E & R amendment to LB 476:

AM7052

- 1 1. On page 3, lines 2 and 3, strike "sections 69-1301 to
- 2 69-1329", show as stricken, and insert "the Uniform Disposition of
- 3 Unclaimed Property Act".

**LEGISLATIVE BILL 501.** Placed on Select File.

**LEGISLATIVE BILL 762.** Placed on Select File.

**LEGISLATIVE BILL 319.** Placed on Select File as amended.

E & R amendment to LB 319:

AM7053

- 1 1. On page 1, line 2, after "sections" insert
- 2 "71-4604.01," and insert a comma after "71-4608"; and in line 3
- 3 strike "civil penalties provisions" and insert "provisions relating
- 4 to manufactured-home seals, recreational-vehicle plans and
- 5 specifications, and civil penalties".

**LEGISLATIVE BILL 78.** Placed on Select File.

**LEGISLATIVE BILL 331.** Placed on Select File.

**LEGISLATIVE BILL 453.** Placed on Select File.

**LEGISLATIVE BILL 534.** Placed on Select File.

**LEGISLATIVE BILL 320.** Placed on Select File.

**LEGISLATIVE BILL 396.** Placed on Select File.

**LEGISLATIVE BILL 754.** Placed on Select File as amended.

E & R amendment to LB 754:

AM7055

- 1 1. On page 1, line 2, after "section" insert "24-719,
- 2 Reissue Revised Statutes of Nebraska, and section"; in line 3 after
- 3 the semicolon insert "to require an annual report;"; and in line 4
- 4 strike "section" and insert "sections".

**LEGISLATIVE BILL 475.** Placed on Select File as amended.

E & R amendment to LB 475:

AM7054

- 1 1. On page 1, line 5, strike "sections" and insert
- 2 "section".

**LEGISLATIVE BILL 380.** Placed on Select File as amended.

E & R amendment to LB 380:

AM7056

- 1 1. On page 3, line 11, strike the comma.
- 2 2. On page 5, line 9, strike the commas and show as
- 3 stricken.

**LEGISLATIVE BILL 503A.** Placed on Select File.

**LEGISLATIVE BILL 306A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 128. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Monie Brownson and Edythe Cascini from Lincoln; members of the Crete American Association of University Women; former Senator Doug Kristensen and Jim Fleming from Kearney and Antanas Gostautas, Nijole Gostautaite Midttun, and Lois Flagstad from Lithuania; Jessica Rathbun from Creighton; Senator Erdman's brother, Nick, from Chadron; and 26 fourth-grade students and teachers from Southwest Public School, Indianola.

### **ADJOURNMENT**

At 12:02 p.m., on a motion by Senator Preister, the Legislature adjourned until 9:00 a.m., Thursday, March 10, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**FORTY-FIRST DAY - MARCH 10, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FORTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, March 10, 2005

**PRAYER**

The prayer was offered by Senator Wehrbein.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Engel who was excused; and Senators Dw. Pedersen and D. Pederson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fortieth day was approved.

**ANNOUNCEMENT**

Senator Aguilar designates LB 480 as his priority bill.

**MOTION - Approve Appointments**

Senator Bourne moved the adoption of the Judiciary Committee report for the confirmation of the following appointment(s) found on page 738:

Crime Victim's Reparations Committee

Charles Brewster

William Brueggeman

Voting in the affirmative, 34:

Aguilar	Connealy	Friend	Kruse	Price
Baker	Cornett	Howard	Landis	Schimek
Bourne	Cudaback	Hudkins	Louden	Stuhr
Brown	Erdman	Janssen	McDonald	Stuthman
Burling	Fischer	Johnson	Mines	Thompson
Byars	Flood	Kopplin	Pahls	Wehrbein
Combs	Foley	Kremer	Preister	

Voting in the negative, 0.

Present and not voting, 12:

Beutler	Cunningham	Langemeier	Schrock
Brashear	Heidemann	Raikes	Smith
Chambers	Jensen	Redfield	Synowiecki

Excused and not voting, 3:

Engel                      Pedersen, Dw. Pederson, D.

The appointments were confirmed with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

## RESOLUTION

### LEGISLATIVE RESOLUTION 53. Introduced by Schrock, 38.

WHEREAS, Joe Johnson has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Joe Johnson has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Joe Johnson, in addition to his Scouting duties, is involved in church, music, sports, speech, quiz bowl, and the Drug-Free Leadership Team. Joe is co-president of the student council at Clay Center Public School. Joe is a senior and plans to attend college next fall.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Joe Johnson on achieving the rank of

Eagle Scout.

2. That a copy of this resolution be sent to Joe Johnson.

Laid over.

### ANNOUNCEMENT

Senator Preister designates LB 351 as his priority bill.

### GENERAL FILE

**LEGISLATIVE BILL 217.** Senator Flood renewed his pending amendment, AM0614, found on page 762.

Senator Beutler renewed his pending amendment, AM0726, found on page 792, to the Flood pending amendment.

The Beutler amendment was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Senator Beutler withdrew his pending amendment, FA78, found on page 792.

Senator Beutler offered the following amendment to the Flood pending amendment:  
AM0744

(Amendments to AM0614)

- 1 1. On page 2, line 15, strike the first "and" and after
- 2 "district" insert ", and natural resources districts which do not
- 3 contain a city of the metropolitan class".

The Beutler amendment lost with 7 ayes, 22 nays, 15 present and not voting, and 5 excused and not voting.

Senator Chambers offered the following amendment to the Flood pending amendment:  
FA79

Amend AM0614

1. On page 3, line 22; page 4, line 11 strike "thirty" and insert "sixty".

The Chambers amendment was adopted with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

The Flood amendment, AM0614, as amended, was adopted with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

Senator Flood withdrew his pending amendment, AM0605, found on page 767.

Advanced to E & R for review with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

## STANDING COMMITTEE REPORTS

### Education

**LEGISLATIVE BILL 690.** Placed on General File as amended.

Standing Committee amendment to LB 690:

AM0705

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Sections 1 to 6 of this act shall be known
- 4 and may be cited as the Career Education Partnership Act.
- 5 Sec. 2. The Legislature finds that:
- 6 (1) All students in Nebraska should have equitable
- 7 opportunities to obtain knowledge and skills to meet the academic,
- 8 civic, and economic demands of the twenty-first century;
- 9 (2) Schools need resources to provide programs for
- 10 students to learn information and communication skills, thinking
- 11 and problem-solving skills, and interpersonal and self-directional
- 12 skills for them to be productive and successful in their work,
- 13 family, and community;
- 14 (3) Schools need resources to provide programs that will
- 15 motivate high-risk students to graduate from high school; and
- 16 (4) Many schools are experiencing continuing declines in
- 17 student enrollment;
- 18 (5) There is a need to establish strategies and programs
- 19 that develop skills which enable young people to complete high
- 20 school, find jobs, build assets, and remain in their communities;
- 21 and
- 22 (6) Many young adults are leaving the State of Nebraska
- 23 to seek higher education and employment opportunities.
- 24 Sec. 3. For purposes of the Career Education Partnership
- 1 Act, career education includes curriculum, work ethics, general
- 2 employability skills, technical skills, occupational specific
- 3 skills, and applied learning that integrates academic knowledge and
- 4 vocational skills taught through the following course areas:
- 5 Agriculture education, business education, career education,
- 6 cooperative education or diversified occupations, family and
- 7 consumer sciences, health occupations, industrial technology
- 8 education, marketing education, and trade and industrial education.
- 9 Sec. 4. The purpose of the Career Education Partnership
- 10 Act is to support schools in Nebraska in continuing their career
- 11 education programs through state grants that will enable them to
- 12 sustain programs which offer career education opportunities. The
- 13 act shall:
- 14 (1) Identify and explore options for Nebraska career
- 15 education implementation in different sizes of schools;
- 16 (2) Collaborate with ongoing school improvement efforts;

17 (3) Create models of collaboration between career and  
18 academic education;

19 (4) Develop partnerships between secondary and  
20 postsecondary career education institutions; and

21 (5) Develop new partnerships with business and industry  
22 based on Nebraska workforce development needs.

23 Sec. 5. (1) The State Department of Education shall  
24 establish and administer a competitive grant process to provide  
25 grants to a collaborative partnership of two or more local systems  
26 as defined in section 79-1003 that are collaborating on a project  
27 with an educational service unit, a community college, and an  
1 advisory group related to the purposes of the Career Education  
2 Partnership Act. For purposes of this section, an advisory group  
3 means a local or regional economic development board, a local or  
4 regional chamber of commerce board, or a group specifically  
5 designed to support career education and entrepreneurial  
6 activities.

7 (2) Grant money shall be used to provide for equitable  
8 opportunities for students in a minimum of two of the following  
9 areas:

10 (a) Assist schools in developing academic competencies,  
11 technical competencies, and basic work skill foundations for  
12 students;

13 (b) Assist schools in developing curriculum;

14 (c) Assist schools in employing certified teachers to  
15 provide course instruction;

16 (d) Assist schools in providing professional development  
17 for certified teachers who provide course instruction; and

18 (e) Assist schools in purchasing supplies necessary for  
19 program delivery.

20 (3) Grants shall not exceed seventy-five thousand dollars  
21 per collaborative project. Grant recipients shall have two years  
22 to expend the grant funds. No applicant shall receive funding for  
23 more than one project at one time. Grants shall be awarded  
24 directly to one of the school districts representing the  
25 collaborative project. The department shall act as the fiduciary  
26 agent for the grants.

27 Sec. 6. It is the intent of the Legislature to  
1 appropriate four hundred fifty thousand dollars each fiscal year to  
2 carry out the Career Education Partnership Act."

(Signed) Ron Raikes, Chairperson

### **Transportation and Telecommunications**

**LEGISLATIVE BILL 65.** Placed on General File.

**LEGISLATIVE BILL 68.** Placed on General File.

**LEGISLATIVE BILL 86.** Placed on General File.

**LEGISLATIVE BILL 697.** Placed on General File as amended.  
(Standing Committee amendment, AM0723, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 333.** Indefinitely postponed.

**LEGISLATIVE RESOLUTION 15.** Reported to the Legislature for further consideration.

(Signed) Tom Baker, Chairperson

### **BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 389A.** Introduced by Mines, 18.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 389, Ninety-ninth Legislature, First Session, 2005.

**LEGISLATIVE BILL 664A.** Introduced by Cudaback, 36.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 664, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

### **ANNOUNCEMENTS**

Senator Friend designates LB 116 as his priority bill.

The General Affairs Committee designates LB 573 as its priority bill.

### **MOTION - Override Veto on LB 53**

Senator Schimek renewed her pending motion, found on page 792, that LB 53 becomes law notwithstanding the objections of the Governor.

Senator Dw. Pedersen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 12 nays, and 12 not voting.

Senator Chambers moved for a call of the house. The motion prevailed with 40 ayes, 0 nays, and 9 not voting.

Senator Smith requested a roll call vote, in reverse order, on the motion to override the Governor's veto.

Whereupon the President stated: "The question shall be, 'Shall the bill pass notwithstanding the objections of the Governor?' "

Voting in the affirmative, 36:

Aguilar	Combs	Jensen	Pahls	Schrock
Beutler	Connealy	Johnson	Pedersen, Dw.	Synowiecki
Bourne	Cornett	Kopplin	Pederson, D.	Thompson
Brashear	Cudaback	Kruse	Preister	Wehrbein
Brown	Cunningham	Landis	Price	
Burling	Flood	Langemeier	Raikes	
Byars	Howard	McDonald	Redfield	
Chambers	Janssen	Mines	Schimek	

Voting in the negative, 11:

Baker	Foley	Hudkins	Smith
Erdman	Friend	Kremer	Stuhr
Fischer	Heidemann	Louden	

Present and not voting, 1:

Stuthman

Excused and not voting, 1:

Engel

Having received a constitutional three-fifths majority voting in the affirmative, the bill passed notwithstanding the objections of the Governor.

The Chair declared the call raised.

## GENERAL FILE

**LEGISLATIVE BILL 675.** Title read. Considered.

## SPEAKER BRASHEAR PRESIDING

The Standing Committee amendment, AM0631, found on page 697, was considered.

Pending.

**COMMUNICATION**

March 10, 2005

The Honorable John Gale  
Secretary of State  
2300 State Capitol Building  
Lincoln, NE 68509

Dear Mr. Secretary:

Pursuant to the provisions of 84-503, R.R.S., we are forwarding LB 53 with a certificate attached thereto signed by the President of the Legislature certifying the passage of LB 53, notwithstanding the objections of the Governor.

Sincerely,  
(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

**CERTIFICATE**

Legislative Bill 53, having been returned by the Governor with his objections thereto, and after reconsideration having passed the Legislature by the constitutional majority, it has become law this 10th day of March 2005.

(Signed) Kermit A. Brashear  
President of the Legislature

**GENERAL FILE**

**LEGISLATIVE BILL 675.** The Standing Committee amendment, AM0631, found on page 697 and considered in this day's Journal, was renewed.

The Standing Committee amendment was adopted with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 675A.** Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

**ANNOUNCEMENTS**

The Urban Affairs Committee designates LB 748 and LB 161 as its priority bills.

Senator Janssen designates LB 82 as his priority bill.

Senator Wehrbein designates LB 90 as his priority bill.

Senator Thompson designates LB 713 as her priority bill.

Senator Landis designates LB 48 as his priority bill.

**NOTICE OF COMMITTEE HEARING**  
**Business and Labor**  
Room 2102

Monday, March 21, 2005

1:30 p.m.

Kenneth Stewart - Boiler Safety Code Advisory Board

(Signed) Douglas Cunningham, Chairperson

**STANDING COMMITTEE REPORT**  
**Business and Labor**

**LEGISLATIVE BILL 554.** Placed on General File as amended.  
Standing Committee amendment to LB 554:  
AM0670

- 1 1. Strike the original sections and insert the following
- 2 sections:
- 3 "Section 1. Section 48-1203, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 48-1203. (1) Except as otherwise provided in this
- 6 section and section 48-1203.01, every employer shall pay to each of
- 7 his or her employees wages at the following minimum ~~rate~~ wage:
- 8 (a) Five dollars and fifteen cents per hour through
- 9 September 30, 2005;
- 10 (b) Five dollars and fifty-two cents per hour on and
- 11 after October 1, 2005, through September 30, 2006;
- 12 (c) Five dollars and eighty-nine cents per hour on and
- 13 after October 1, 2006, through September 30, 2007; and
- 14 (d) Six dollars and twenty-six cents per hour on and
- 15 after October 1, 2007, of four dollars and twenty-five cents per
- 16 hour through August 31, 1997, and five dollars and fifteen cents
- 17 per hour on and after September 1, 1997.
- 18 (2) For persons compensated by way of gratuities such as
- 19 waitresses, waiters, hotel bellhops, porters, and shoeshine
- 20 persons, the employer shall pay wages at the minimum ~~rate~~ wage of
- 21 ~~two dollars and thirteen cents per hour~~ fifty percent of the

22 applicable minimum wage provided in subsection (1) of this section,  
23 plus all gratuities given to them for services rendered. The sum  
24 of wages and gratuities received by each person compensated by way  
1 of gratuities shall equal or exceed the minimum wage rate provided  
2 in subsection (1) of this section. In determining whether or not  
3 the individual is compensated by way of gratuities, the burden of  
4 proof shall be upon the employer.

5 (3) Any employer employing student-learners as part of a  
6 bona fide vocational training program shall pay such  
7 student-learners' wages at a rate of at least seventy-five percent  
8 of the minimum wage rate which would otherwise be applicable.

9 Sec. 2. Section 48-1203.01, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 48-1203.01. (1) An employer may pay a new employee who  
12 is younger than twenty years of age and is not a seasonal or  
13 migrant worker a training wage at a rate of four dollars and  
14 twenty-five cents per hour for ninety days from the date the new  
15 employee was hired. An employer may pay such new employee the  
16 training wage ~~rate~~ for an additional ninety-day period while the  
17 new employee is participating in on-the-job training which ~~(1)~~ (a)  
18 requires technical, personal, or other skills which are necessary  
19 for his or her employment and ~~(2)~~ (b) is approved by the  
20 Commissioner of Labor. No more than one-fourth of the total hours  
21 paid by the employer shall be at the training wage, ~~rate~~.

22 (2) The training wage under subsection (1) of this  
23 section shall be a minimum of:

24 (a) Four dollars and twenty-five cents per hour through  
25 September 30, 2005;

26 (b) Four dollars and fifty-five cents per hour on and  
27 after October 1, 2005, through September 30, 2006;

1 (c) Four dollars and eighty-five cents per hour on and  
2 after October 1, 2006, through September 30, 2007; and

3 (d) Five dollars and fifteen cents per hour on and after  
4 October 1, 2007.

5 (3) An employer shall not pay the training wage ~~rate~~ if  
6 the hours of any other employee are reduced or if any other  
7 employee is laid off and the hours or position to be filled by the  
8 new employee is substantially similar to the hours or position of  
9 such other employee. An employer shall not dismiss or reduce the  
10 hours of any employee with the intention of replacing such employee  
11 or his or her hours with a new employee receiving the training  
12 wage, ~~rate~~.

13 Sec. 3. Section 48-1206, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 48-1206. (1) The Commissioner of Labor shall have the  
16 authority to subpoena records and witnesses related to the  
17 enforcement of ~~section 48-1203 and this section~~ the Wage and Hour  
18 Act. The commissioner or his or her agent may inspect all related  
19 records and gather testimony on any matter relative to the

20 enforcement of the Wage and Hour Act.

21 (2) Any employer who violates any of the provisions of  
22 section 48-1203 or 48-1203.01 shall be guilty of a Class IV  
23 misdemeanor.

24 (3) It shall be the duty of the county attorney for the  
25 county in which any violation of the Wage and Hour Act occurs to  
26 prosecute the same in the district court in the county where the  
27 offense occurred.

1 (4) Any employer who violates any provision of section  
2 48-1203 or 48-1203.01 shall be liable to the employees affected in  
3 the amount of their unpaid minimum wages or training wage, as the  
4 case may be.

5 (5) Action to recover unpaid minimum wages or training  
6 wage as provided in subsection (4) of this section may be  
7 maintained in any court of competent jurisdiction by any one or  
8 more employees for and in behalf of himself, herself, or themselves  
9 and other employees similarly situated, or such employee or  
10 employees may designate an agent or representative to maintain such  
11 action for and in behalf of all employees similarly situated. The  
12 court in which any action is brought under this subsection shall,  
13 in addition to any judgment awarded to the plaintiff or plaintiffs,  
14 allow costs of the action and reasonable attorney's fees to be paid  
15 by the defendant. In any proceedings brought pursuant to this  
16 subsection, the employee shall not be required to pay any filing  
17 fee or other court costs necessarily incurred in such proceedings.

18 Sec. 4. Original sections 48-1203, 48-1203.01, and  
19 48-1206, Reissue Revised Statutes of Nebraska, are repealed."

(Signed) Douglas Cunningham, Chairperson

### AMENDMENTS - Print in Journal

Senator Landis filed the following amendment to LB 66:  
AM0720

(Amendments to AM0296)

1 1. Insert the following new sections:

2 "Sec. 12. Sections 12 to 21 of this act shall be known  
3 and may be cited as the Nebraska Archaeological Resources  
4 Preservation Act.

5 Sec. 13. The Legislature hereby finds and declares that:

6 (1) The resource base of archaeological sites is being  
7 threatened at an increasing rate by agricultural, urban,  
8 commercial, transportation, governmental, and industrial  
9 development; and

10 (2) Archaeological sites represent an important public  
11 resource embodying the record of our state's cultural heritage.

12 Sec. 14. For purposes of the Nebraska Archaeological  
13 Resources Preservation Act:

14 (1) Archaeological resource means any material object of

- 15 past human life or activities that is of archaeological interest.  
16 Such objects include, but are not limited to, pottery, basketry,  
17 bottles, weapons, tools, structures or portions of structures,  
18 dwellings, rock paintings, rock carvings, intaglios, graves, human  
19 skeletal materials, or any portion or piece of any of such items.  
20 Nonfossilized and fossilized paleontological specimens, or any  
21 portion or piece thereof, shall not be considered archaeological  
22 resources unless found in an archaeological context. No object  
23 shall be treated as an archaeological resource under this  
1 subdivision unless such object is determined to be at least fifty  
2 years of age;  
3 (2) Archaeological site means a place or location where  
4 archaeological resources are found;  
5 (3) Master archaeological site file means the records  
6 inventory of all known Nebraska archaeological sites maintained by  
7 the Nebraska State Historical Society;  
8 (4) National Register of Historic Places means the  
9 register of districts, sites, buildings, structures, and objects  
10 significant in American history, architecture, archaeology,  
11 engineering, and culture, maintained by the Secretary of the  
12 Interior under the authority of the federal Historic Sites,  
13 Buildings, and Antiquities Act, 16 U.S.C. 462(b), and the National  
14 Historic Preservation Act, 16 U.S.C. 470a(a)(1)(A);  
15 (5) State agency means any division, department, board,  
16 bureau, commission, or agency of the State of Nebraska; and  
17 (6) Undertaking means a project, activity, or program  
18 funded in whole or in part under the jurisdiction of a state  
19 agency.  
20 Sec. 15. (1) There is hereby established the State  
21 Archaeology Office which shall be a division within the Nebraska  
22 State Historical Society. The purpose of the office shall be to  
23 coordinate and encourage appropriate archaeological undertakings  
24 and to preserve archaeological resources. The State Archaeology  
25 Office may adopt and promulgate rules and regulations to carry out  
26 the purposes of the Nebraska Archaeological Resources Preservation  
27 Act.  
1 (2) The State Archaeology Office shall be headed by the  
2 State Archaeologist. The State Archaeologist shall be a graduate  
3 of a recognized college or university with a graduate degree in  
4 archaeology or anthropology and shall have sufficient practical  
5 experience and knowledge of archaeology to carry out the purposes  
6 of the act.  
7 (3) The State Archaeology Office shall:  
8 (a) Promote development of archaeological resources for  
9 educational, cultural, tourism, and scientific purposes;  
10 (b) Support popular and avocational interest in  
11 archaeological resources through field trips, demonstrations,  
12 seminars, and excavations throughout the state;  
13 (c) Conduct a program of locating, identifying,

- 14 quantifying, and assessing the significance of the state's  
15 archaeological resources;  
16 (d) Maintain the master archaeological site file;  
17 (e) Advise state agencies, political subdivisions,  
18 nongovernmental organizations, commercial and business interests,  
19 private property owners, individuals, and others as to the  
20 provisions and requirements of the act;  
21 (f) Serve as the liaison office in transactions dealing  
22 with archaeological resources between state agencies and between  
23 the state and the federal government;  
24 (g) Cooperate with state agencies and others in  
25 overseeing the execution of undertakings required by the act;  
26 (h) Serve as the liaison office between state agencies  
27 and Indian tribes, the Commission on Indian Affairs, or other  
1 constituent groups culturally affiliated with archaeological sites  
2 involved in undertakings;  
3 (i) Maintain a list of archaeologists qualified to  
4 conduct research projects required by the act;  
5 (j) Maintain a permanent repository and electronic data  
6 base of published and unpublished sources on the archaeological  
7 resources of the state;  
8 (k) Prepare, publish, and distribute for professional use  
9 and public education reports, bulletins, pamphlets, maps, and other  
10 products necessary to achieve the purposes of the act;  
11 (l) Implement a program of emergency salvage archaeology,  
12 which includes surveys and either salvage or preservation of  
13 archaeological resources imperiled by development activities or  
14 natural forces;  
15 (m) Administer and manage grants, bequests, devises, tax  
16 incentives, and easements of property to the state for the purposes  
17 of preserving archaeological sites and resources; and  
18 (n) Ensure the long-term curation and management of  
19 collections and records resulting from undertakings within the  
20 state;  
21 (o) Identify properties included in the National Register  
22 of Historic Places that are endangered, and coordinate or  
23 facilitate the purchase and maintenance of such properties by other  
24 public or private agencies; and  
25 (p) Conduct all other activities necessary to carry out  
26 the purposes of the act.  
27 Sec. 16. (1) Except as provided in subsection (2) of  
1 this section, the head of any state agency having jurisdiction over  
2 a proposed state or state-funded undertaking, which has potential  
3 to affect archaeological resources or sites, shall, prior to the  
4 approval of the expenditure of any state funds on the undertaking,  
5 notify the State Archaeology Office of the undertaking and  
6 cooperate with the office to identify and develop measures to  
7 mitigate the effect of the undertaking on any archaeological site  
8 or resource that is included in or eligible for inclusion in the

9 National Register of Historic Places.

10 (2) The Department of Roads and a holder of a license  
11 from the Federal Energy Regulatory Commission shall be exempt from  
12 the provisions of the Nebraska Archaeological Resources  
13 Preservation Act as long as a cooperative agreement exists between  
14 the Department of Roads or the holder of a license from the Federal  
15 Energy Regulatory Commission and the Nebraska State Historical  
16 Society which ensures that all highway construction projects and  
17 projects licensed by the Federal Energy Regulatory Commission meet  
18 federal historic preservation legislation and regulations, and such  
19 federal preservation legislation and regulations fulfill or exceed  
20 the objectives and standards of the act.

21 (3) Nothing in this section shall be construed to abridge  
22 the rights of private property owners and in no case shall a  
23 private property owner be required to pay for activities undertaken  
24 by the State Archaeology Office.

25 Sec. 17. The State Archaeology Office may accept, use,  
26 disburse, and administer all funds or other property, services, and  
27 money allotted to it for purposes of the Nebraska Archaeological  
1 Resources Preservation Act and may prescribe the conditions under  
2 which such funds, property, services, or money will be accepted and  
3 administered.

4 Sec. 18. (1) Any person who knowingly and willfully  
5 appropriates, excavates, injures, or destroys any archaeological  
6 resource on public land without written permission from the State  
7 Archaeology Office is guilty of a Class II misdemeanor. All  
8 articles and materials illegally taken and all money and materials  
9 derived from the sale or trade of the same shall be forfeited to  
10 the state.

11 (2) When the State Archaeology Office has cause to  
12 believe that a person has engaged in or is engaging in any unlawful  
13 conduct prescribed in this section, it may apply for and obtain, in  
14 an action in the appropriate district court of this state, a  
15 temporary restraining order or injunction, or both, pursuant to the  
16 Nebraska rules of civil procedure prohibiting such person from  
17 continuing such practices, or engaging therein, or doing any act in  
18 furtherance thereof.

19 Sec. 19. No person shall enter or attempt to enter upon  
20 the lands of another without permission and intentionally  
21 appropriate, excavate, injure, or destroy any archaeological  
22 resource or any archaeological site. Any person committing such  
23 act is guilty of a Class II misdemeanor. All articles and material  
24 illegally taken and all money and materials derived from the sale  
25 or trade of the same shall be forfeited to the private property  
26 owner.

27 Sec. 20. The Nebraska State Historical Society may use  
1 General Fund appropriations to match other funds, grants, or money  
2 received to carry out the Nebraska Archaeological Resources  
3 Preservation Act.

- 4 Sec. 21. The State Archaeology Cash Fund is hereby  
5 created. The fund may be used to carry out the purposes of the  
6 Nebraska Archaeological Resources Preservation Act. Any money in  
7 the fund available for investment shall be invested by the state  
8 investment officer pursuant to the Nebraska Capital Expansion Act  
9 and the Nebraska State Funds Investment Act."  
10 2. Renumber the remaining sections accordingly.

Senator Mines filed the following amendment to LB 71:

(Amendment, AM0627, is printed separately and available in the Bill Room, Room 1104.)

### **VISITORS**

Visitors to the Chamber were 104 fourth-grade students and teachers from Crete; a group from Bellevue Chamber of Commerce Leadership Program; Patrick and Jeff Epperson from Lincoln; 23 fourth-grade students and teachers from Weeping Water Public School; 15 members of Women Involved in Farm Economics; and Don Kavalec from Omaha.

The Doctor of the Day was Dr. William Dailey from Friend.

### **ADJOURNMENT**

At 11:57 a.m., on a motion by Senator Burling, the Legislature adjourned until 9:00 a.m., Friday, March 11, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**FORTY-SECOND DAY - MARCH 11, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FORTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, March 11, 2005

**PRAYER**

The prayer was offered by Pastor Lynette Janssen, St. John's Lutheran Church, Otoe.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Engel who was excused; and Senators Landis, Loudon, Mines, and Price who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-first day was approved.

**STANDING COMMITTEE REPORTS  
Appropriations**

**LEGISLATIVE BILL 250.** Indefinitely postponed.

(Signed) Don Pederson, Chairperson

**Health and Human Services**

**LEGISLATIVE BILL 101.** Placed on General File as amended.  
Standing Committee amendment to LB 101:  
AM0748

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. (1) The Department of Health and Human
- 4 Services Finance and Support shall apply for a waiver or an
- 5 amendment to an existing waiver under the medical assistance
- 6 program established in section 68-1018 for the purpose of providing
- 7 medical assistance for intensive early intervention services based

8 on behavioral principles for children with autism spectrum  
 9 disorders.  
 10 (2) It is the intent of the Legislature that such waiver  
 11 or amendment (a) require means testing for and cost sharing by  
 12 recipient families, (b) limit eligibility only to children for whom  
 13 such services have been initiated prior to the age of five years,  
 14 (c) be implemented incrementally over time, (d) require  
 15 demonstrated progress toward the attainment of treatment goals as a  
 16 condition for the continued receipt of medical assistance benefits  
 17 for such treatment, (e) be developed in consultation with the  
 18 Health and Human Services Committee of the Legislature and the  
 19 federal Centers for Medicare and Medicaid Services and with the  
 20 input of parents and families of children with autism spectrum  
 21 disorders and organizations advocating on behalf of such persons,  
 22 and (f) be submitted to the federal Centers for Medicare and  
 23 Medicaid Services as soon as it is reasonably possible, but no  
 24 later than July 1, 2006.  
 1 (3) The department shall provide monthly progress reports  
 2 beginning on July 1, 2005, to the Health and Human Services  
 3 Committee of the Legislature during the preparation of such waiver  
 4 or amendment.  
 5 Sec. 2. Since an emergency exists, this act takes effect  
 6 when passed and approved according to law."

**LEGISLATIVE BILL 548.** Placed on General File as amended.  
 Standing Committee amendment to LB 548:  
 AM0735

- 1 1. Insert the following new section:
- 2 "Sec. 4. This act becomes operative on July 15, 2005."
- 3 2. On page 4, line 12, strike "fifty", show as stricken,
- 4 and insert "fifty-two"; in line 26 strike "and (4)" and insert "to
- 5 (6)"; and in line 27 strike "fifty" and insert "fifty-two".
- 6 3. Renumber the remaining sections accordingly.

(Signed) Jim Jensen, Chairperson

### ANNOUNCEMENTS

Senator Brashear designates LB 538 as his priority bill.

Senator Cunningham designates LB 273 as his priority bill.

Senator Jensen designates LB 548 as his priority bill.

Senator Mines designates LB 716 as his priority bill.

The Legislative Performance Audit Committee designates LB 589 as its priority bill.

Senator Fischer designates LB 373 as her priority bill.

Senator Connealy designates LB 312 as his priority bill.

Senator Burling designates LB 542 as his priority bill.

Senator Erdman designates LB 709 as his priority bill.

The Health and Human Services Committee designates LB 382 and LB 551 as its priority bills.

Senator Foley designates LB 57 as his priority bill.

## REPORTS

The following reports were received by the Legislature:

### **Administrative Services, Department of**

Employee Relations Report

### **Boys Town National Research Hospital**

Nebraska Tobacco Settlement Biomedical Research Development Fund  
FY 2003-2004 Progress Report

### **Creighton University**

Nebraska Tobacco Settlement Biomedical Research Development Fund  
FY 2003-2004 Progress Report

### **Education, Department of**

Status of Negotiations for 2005-2007 Between the Nebraska Department  
of Education and the Nebraska Association of Public Employees/  
AFSCME, Local 61 Report

### **Railway Council**

Annual Report

### **University of Nebraska-Lincoln**

Nebraska Tobacco Settlement Biomedical Research Development Fund  
FY 2003-2004 Progress Report

### **University of Nebraska Medical Center**

Nebraska Tobacco Settlement Biomedical Research Development Fund  
FY 2003-2004 Progress Report

## REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 10, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Ashburn, Bill  
ALLTEL Communications

McKey, Michael  
 Marijuana Policy Project

Rickman, Thomas K.  
 Sanofi-Aventis Group

### **MOTION - Approve Appointment**

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 791:

Board of Educational Lands and Funds  
 M. Jane Keller

Voting in the affirmative, 31:

Aguilar	Erdman	Jensen	Pedersen, Dw.	Synowiecki
Bourne	Flood	Johnson	Pederson, D.	Thompson
Burling	Foley	Kopplin	Raikes	Wehrbein
Byars	Friend	Kremer	Redfield	
Connealy	Heidemann	Langemeier	Schimek	
Cudaback	Howard	McDonald	Stuhr	
Cunningham	Janssen	Pahls	Stuthman	

Voting in the negative, 0.

Present and not voting, 13:

Baker	Brown	Cornett	Kruse	Smith
Beutler	Chambers	Fischer	Preister	
Brashear	Combs	Hudkins	Schrock	

Excused and not voting, 5:

Engel	Landis	Louden	Mines	Price
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The appointment was confirmed with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

### **SELECT FILE**

**LEGISLATIVE BILL 503A.** Senator Stuhr offered the following amendment:  
 AM0775

- 1 1. On page 2, line 10, strike "\$25,882" and insert
- 2 "\$29,694" and strike "\$26,723" and insert "\$30,660".

The Stuhr amendment was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 98.** E & R amendment, AM7028, found on page 646, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 244.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 246.** Senator Jensen offered the following amendment:

AM0763

- 1 1. Strike original section 2 and insert the following
- 2 new sections:
- 3 "Section 1. Section 71-434, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 71-434. (1) Licensure activities under the Health Care
- 6 Facility Licensure Act shall be funded by license fees. An
- 7 applicant for an initial or renewal license under section 71-433
- 8 shall pay a license fee as provided in this section.
- 9 (2) License fees shall include a base fee of fifty
- 10 dollars and an additional fee based on:
- 11 (a) Variable costs to the department of inspections,
- 12 architectural plan reviews, and receiving and investigating
- 13 complaints, including staff salaries, travel, and other similar
- 14 direct and indirect costs;
- 15 (b) The number of beds available to persons residing at
- 16 the health care facility;
- 17 (c) The program capacity of the health care facility or
- 18 health care service; or
- 19 (d) Other relevant factors as determined by the
- 20 department.
- 21 Such additional fee shall be no more than ~~one two~~
- 22 thousand six hundred dollars for ~~an assisted living facility~~, a
- 23 hospital or a health clinic operating as an ambulatory surgical
- 24 center, no more than two thousand dollars for an assisted-living
- 1 facility, a health clinic providing hemodialysis or labor and
- 2 delivery services, an intermediate care facility, an intermediate
- 3 care facility for the mentally retarded, a nursing facility, or a
- 4 skilled nursing facility, no more than one thousand dollars for
- 5 home health agencies, hospice services, and centers for the
- 6 developmentally disabled, and no more than ~~five~~ seven hundred
- 7 dollars for all other health care facilities and health care
- 8 services.
- 9 (3) If the licensure application is denied, the license
- 10 fee shall be returned to the applicant, except that the department
- 11 may retain up to twenty-five dollars as an administrative fee and

12 may retain the entire license fee if an inspection has been  
13 completed prior to such denial.

14 (4) The department shall also collect the fee provided in  
15 subsection (1) of this section for reinstatement of a license that  
16 has lapsed or has been suspended or revoked. The department shall  
17 collect a fee of ten dollars for a duplicate original license.

18 (5) The department shall adopt and promulgate rules and  
19 regulations for the establishment of license fees under this  
20 section.

21 (6) The department shall remit all license fees collected  
22 under this section to the State Treasurer for credit to the  
23 Department of Health and Human Services Regulation and Licensure  
24 Cash Fund. License fees collected under this section shall only be  
25 used for activities related to the licensure of health care  
26 facilities and health care services.

27 Sec. 3. Original sections 71-434 and 71-6054, Reissue  
1 Revised Statutes of Nebraska, are repealed."

2 2. Renumber the remaining section accordingly.

The Jensen amendment was adopted with 27 ayes, 0 nays, 18 present and  
not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 243.** E & R amendment, AM7025, found on page  
647, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 243A.** E & R amendment, AM7026, found on page  
647, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 76.** Senator Baker offered the following  
amendment:  
(Amendment, AM0699, is on file and available in the Clerk's Office, Room  
2014.)

The Baker amendment was adopted with 27 ayes, 0 nays, 19 present and not  
voting, and 3 excused and not voting.

Senator Beutler offered the following amendment:  
FA80

On page 15, line 24 strike "The states" and insert "The Department, a  
prosecutor or a court"

The Beutler amendment was adopted with 29 ayes, 0 nays, 17 present and

not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 94.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 298.** E & R amendment, AM7029, printed separately and referred to on page 689, was adopted.

Senator Beutler offered the following amendment:  
AM0776

(Amendments to E & R amendments, AM7029)

- 1 1. On page 9, after line 1, insert:
- 2 "(d) The department shall make available to the public a
- 3 listing of all documents under subsection (a) of this section or
- 4 documents under subsection (c) of this section which have been
- 5 provided to the department.".

The Beutler amendment was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 335.** Senator Schrock offered the following amendment:  
(Amendment, AM0780, is on file and available in the Clerk's Office, Room 2014.)

The Schrock amendment was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 198.** E & R amendment, AM7031, found on page 689, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 10.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 236.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 238.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 262.** E & R amendment, AM7032, found on page 690, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 355.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 211.** E & R amendment, AM7033, found on page 690, was adopted.

Senator D. Pederson renewed his pending amendment, FA71, found on page 661.

The D. Pederson amendment was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 211A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 284.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 139.** E & R amendment, AM7034, found on page 690, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 441.** Senator Loudon offered the following amendment:

AM0351

1 1. Insert the following new section:

2 "Section 1. Section 54-199, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 54-199. (1) To record a brand, a person shall forward to  
5 the Nebraska Brand Committee a facsimile or description of the  
6 brand desired to be recorded, a written application, and a  
7 recording fee established by the brand committee. Such recording  
8 fee may vary according to the number of locations and methods of  
9 brand requested but shall not be more than one hundred dollars per  
10 application.

11 (2) For recording of visual brands, upon receipt of a  
12 facsimile of the brand, an application, and the required fee, the  
13 brand committee shall determine compliance with the following  
14 requirements:

15 (a) The brand shall be an identification mark that is  
16 applied to the hide of a live animal by hot iron branding or by  
17 either hot iron branding or freeze branding. The brand shall be on  
18 either side of the animal in any one of three locations, the  
19 shoulder, ribs, or hip; ~~except that after September 6, 1991, no~~  
20 ~~new brand shall be recorded for the ribs of the animal on either~~  
21 ~~side. All brands recorded for the ribs on such date shall remain~~  
22 ~~valid and renewable and shall be transferable until such recorded~~  
23 ~~brand expires;~~

24 (b) The brand is not recorded under the name of any other  
1 person and does not conflict with or closely resemble a prior

- 2 recorded brand;
- 3 (c) The brand application specifies the left or right  
4 side of the animal and the location on that side of the animal  
5 where the brand is to be placed;
- 6 (d) The brand is not recorded as a trade name nor as the  
7 name of any profit or nonprofit corporation, unless such trade name  
8 or corporation is of record, in current good standing, with the  
9 Secretary of State; and
- 10 (e) The brand is, in the judgment of the brand committee,  
11 legible, adequate, and of such a nature that the brand when applied  
12 can be properly read and identified by employees of the brand  
13 committee.
- 14 (3) All visual brands shall be recorded as a hot iron  
15 brand only unless a co-recording as a freeze brand or other  
16 approved method of branding is requested by the applicant. The  
17 brand committee shall approve co-recording a brand as a freeze  
18 brand unless the brand would not be distinguishable from in-herd  
19 identification applied by freeze branding.
- 20 (4) The brand committee may, by rule and regulation,  
21 provide for the recording and use of brands by electronic device or  
22 other nonvisual method of livestock identification. Any such  
23 method of livestock identification shall be approved as a brand  
24 only if it functions as a means of identifying ownership of  
25 livestock so branded that is equal to, or superior to, visual  
26 methods of livestock branding. Before approving any nonvisual  
27 method of branding, the brand committee shall consider the degree  
1 to which such method may be susceptible to error, failure, or  
2 fraudulent alteration. Any rule or regulation shall be adopted  
3 only after public hearing conducted in compliance with the  
4 Administrative Procedure Act.
- 5 (5) If the facsimile, the description, or the application  
6 does not comply with the requirements of this section, the brand  
7 committee shall not record such brand as requested but shall return  
8 the recording fee to the forwarding person. The power of  
9 examination and rejection is vested in the brand committee, and if  
10 the brand committee determines that the application for a visual  
11 brand falls within the category set out in subdivision (2)(e) of  
12 this section, it shall decide whether or not a recorded brand shall  
13 be issued. The brand committee shall make such examination as  
14 promptly as possible. If the brand is recorded, the ownership  
15 vests from the date of filing of the application."
- 16 2. On page 3, line 2, strike "section" and insert  
17 "sections 54-199 and"; and in line 3 strike "is" and insert "are".
- 18 3. Renumber the remaining sections accordingly.

**SENATOR WEHRBEIN PRESIDING**

**SENATOR CUDABACK PRESIDING**

The Louden amendment was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 66.** E & R amendment, AM7021, found on page 634, was adopted.

Senator Landis renewed his pending amendment, AM0606, found on page 637.

The Landis amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Senator Landis withdrew his pending amendment, AM0720, found on page 805.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 66A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 71.** E & R amendment, AM7024, found on page 647, was adopted.

Senator Mines renewed his pending amendment, AM0627, printed separately and referred to on page 809.

Senator Beutler offered the following amendment to the Mines pending amendment:

FA81

Amend AM0627

1. On page 10, line 19, strike "remove" and insert "increase both", and on line 20 strike "to increase".
2. On page 11 on lines 6 and 7 reinstate the stricken matter and strike the reinstated "three" and show as stricken and insert "five".

The Beutler amendment was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

The Mines amendment, as amended, was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 71A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 264.** E & R amendment, AM7035, found on page 732, was adopted.

Senator Thompson offered the following amendment:

AM0756

(Amendments to Standing Committee amendments, AM0499)

1 1. Insert the following new section:  
 2 "Section 1. Section 43-1302, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 43-1302. (1)(a) Until January 1, 2006, the ~~The~~ State  
 5 Foster Care Review Board shall be comprised of nine members to be  
 6 appointed by the Governor, subject to confirmation by a majority of  
 7 the members elected to the Legislature. At least one member shall  
 8 be an attorney with legal expertise in child welfare. Two members  
 9 shall be from each of the three congressional districts as they  
 10 existed on January 1, 1982. In addition to the six members  
 11 representative of the congressional districts, three members shall  
 12 be appointed by the Governor from a group consisting of all the  
 13 chairpersons of the local boards, and one such chairperson shall be  
 14 appointed from each such congressional district. The appointment  
 15 of a member of a local board to the state board shall not create a  
 16 vacancy on the local board. Members other than those appointed  
 17 from the group consisting of all the chairpersons of the local  
 18 boards shall be appointed to three-year terms, and those members  
 19 appointed from the group consisting of all the chairpersons of  
 20 local boards shall be appointed to two-year terms. No person shall  
 21 serve on the state board for more than six consecutive years. No  
 22 person employed by a child-caring agency, a child-placing agency,  
 23 or a court shall be appointed to the state board.

1 (b) On and after January 1, 2006, the State Foster Care  
 2 Review Board shall be comprised of eleven members appointed by the  
 3 Governor with the approval of a majority of the members elected to  
 4 the Legislature, consisting of: Three members of local foster care  
 5 review boards, one from each congressional district; one  
 6 practitioner of pediatric medicine, licensed under the Uniform  
 7 Licensing Law; one practitioner of child clinical psychology,  
 8 licensed under the Uniform Licensing Law; one social worker  
 9 certified under the Uniform Licensing Law, with expertise in the  
 10 area of child welfare; one attorney who is or has been a guardian  
 11 ad litem; one representative of a statewide child advocacy group;  
 12 one child advocacy center coordinator; one director of a court  
 13 appointed special advocate program; and one member of the public  
 14 who has a background in business or finance.  
 15 The terms of members appointed pursuant to this  
 16 subdivision shall be three years, except that, of the initial  
 17 members of the board, one-third shall be appointed for terms of one  
 18 year, one-third for terms of two years, and one-third for terms of  
 19 three years, as determined by the Governor. No person appointed by  
 20 the Governor to the board shall serve more than two consecutive  
 21 three-year terms. An appointee to a vacancy occurring from an  
 22 unexpired term shall serve out the term of his or her predecessor.  
 23 Members whose terms have expired shall continue to serve until

24 their successors have been appointed and qualified. Members  
25 serving on the state board on December 31, 2005, shall continue in  
26 office until the members appointed under this subdivision take  
27 office. The members of the board shall, to the extent possible,  
1 represent the three congressional districts equally.

2 (2) The state board shall select a chairperson,  
3 vice-chairperson, and such other officers as the state board deems  
4 necessary. Members of the state board shall be reimbursed for  
5 their actual and necessary expenses as provided in sections 81-1174  
6 to 81-1177. The state board shall employ or contract for services  
7 from such persons as are necessary to aid it in carrying out its  
8 duties."

9 2. Amend the repealer and renumber the remaining  
10 sections accordingly.

Senator Thompson withdrew her amendment.

Advanced to E & R for engrossment.

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 684A.** Introduced by Schimek, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 684, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

### **STANDING COMMITTEE REPORTS**

#### **Natural Resources**

**LEGISLATIVE BILL 680.** Placed on General File.

**LEGISLATIVE BILL 31.** Indefinitely postponed.

**LEGISLATIVE BILL 390.** Indefinitely postponed.

**LEGISLATIVE BILL 553.** Indefinitely postponed.

(Signed) Ed Schrock, Chairperson

#### **Business and Labor**

**LEGISLATIVE BILL 739.** Placed on General File as amended.

(Standing Committee amendment, AM0747, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Douglas Cunningham, Chairperson

**ANNOUNCEMENTS**

Senator Stuthman designates LB 117 as his priority bill.

Senator Louden designates LB 673 as his priority bill.

Senator Synowiecki designates LB 40 as his priority bill.

Senator Schimek designates LB 577 as her priority bill.

The Education Committee designates LB 129 as its priority bill.

Senator Raikes designates LB 689 as his priority bill.

Senator Beutler designates LB 529 as his priority bill.

Senator Heidemann designates LB 114 as his priority bill.

Senator McDonald designates LB 332 as her priority bill.

The Revenue Committee designates LB 753 as its priority bill.

The Nebraska Retirement Systems Committee designates LB 364 as its priority bill.

Senator Bourne designates LB 111 as his priority bill.

The Judiciary Committee designates LB 348 and LB 361 as its priority bills.

The Business and Labor Committee designates LB 13 as its priority bill.

Senator Cornett designates LB 478 as her priority bill.

Senator Smith designates LB 70 as his priority bill.

Senator Cudaback designates LB 665 as his priority bill.

The Natural Resources Committee designates LB 120 as its priority bill.

Senator Chambers designates LB 759 as his priority bill.

The Executive Board designates LR 14CA as its priority resolution.

**AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 242:

AM0779

- 1 1. Strike the original section 44 and insert the
- 2 following new section:

3 "Sec. 45. Section 49-14,101.02, Reissue Revised Statutes  
4 of Nebraska, is amended to read:  
5 49-14,101.02. (1) For purposes of this section, public  
6 resources means personnel, property, resources, or funds under the  
7 official care and control of a public official or public employee.  
8 (2) Except as otherwise provided in this section, a  
9 public official or public employee shall not use or authorize the  
10 use of ~~personnel, property, resources, or funds under his or her~~  
11 ~~official care and control~~ public resources for the purpose of  
12 campaigning for or against the nomination or election of a  
13 candidate or the qualification, passage, or defeat of a ballot  
14 question.  
15 ~~(2)~~ (3) This section does not prohibit a public official  
16 or public employee from making government facilities available to a  
17 person for campaign purposes if the identity of the candidate or  
18 the support for or opposition to the ballot question is not a  
19 factor in making the government facility available or a factor in  
20 determining the cost or conditions of use.  
21 ~~(3)~~ (4) This section does not prohibit a governing body  
22 from discussing and voting upon a resolution supporting or opposing  
23 a ballot question or a public corporation organized under Chapter  
24 70 from otherwise supporting or opposing a ballot question  
1 concerning the sale or purchase of its assets.  
2 (4) (5) This section does not prohibit a public official  
3 from responding to specific inquiries by the press or the public as  
4 to his or her opinion regarding a ballot question or from providing  
5 information in response to a request for information.  
6 ~~(5)~~ (6) This section does not prohibit a member of the  
7 Legislature from making use of public resources in expressing his  
8 or her opinion regarding a candidate or a ballot question or from  
9 communicating that opinion, ~~to his or her constituents.~~ A member  
10 is not authorized by this section to utilize mass mailings or other  
11 mass communications at public expense for the purpose of  
12 ~~qualifying, supporting, or opposing a ballot question or for the~~  
13 ~~purpose of~~ campaigning for or against the nomination or election of  
14 a candidate. A member is not authorized by this section to utilize  
15 mass mailings at public expense for the purpose of qualifying,  
16 supporting, or opposing a ballot question.  
17 ~~(6) This section does not prohibit a public employee from~~  
18 ~~engaging in campaign activity except during his or her government~~  
19 ~~work time or when otherwise engaged in his or her official duties.~~  
20 (7) Nothing in this section prohibits a public official  
21 from campaigning for or against the qualification, passage, or  
22 defeat of a ballot question or the nomination or election of a  
23 candidate when no public resources are used.  
24 (8) Nothing in this section prohibits a public employee  
25 from campaigning for or against the qualification, passage, or  
26 defeat of a ballot question or the nomination or election of a  
27 candidate when no public resources are used. Except as otherwise

1 provided in this section, a public employee shall not engage in  
 2 campaign activity for or against the qualification, passage, or  
 3 defeat of a ballot question or the nomination or election of a  
 4 candidate while on government work time or when otherwise engaged  
 5 in his or her official duties.  
 6 (9) This section does not prohibit an employee of the  
 7 Legislature from using public resources consistent with this  
 8 section for the purpose of researching or campaigning for or  
 9 against the qualification, passage, or defeat of a ballot question  
 10 if the employee is under the direction and supervision of a member  
 11 of the Legislature."

Senator Brown filed the following amendment to LB 546:  
 AM0782

(Amendments to E & R amendments, AM7030)

1 1. On page 4, line 14, strike "One member" and insert  
 2 "Two members"; in line 18 after "(f)" insert "One member appointed  
 3 by the county board of Washington County;  
 4 (g)"; in line 19 strike "(g)" and insert "(h)"; in line  
 5 20 strike "(h)" and insert "(i)"; in line 23 strike "(i)" and  
 6 insert "(j)"; in lines 21 and 24 strike "and Saunders" and insert  
 7 "Saunders, and Washington"; and in line 26 strike "(j)" and insert  
 8 "(k)".  
 9 2. On page 5, line 1, strike "(k)" and insert "(l)"; in  
 10 line 2 strike "(l)" and insert "(m)"; and in line 4 strike "(m)"  
 11 and insert "(n)".

## VISITORS

Visitors to the Chamber were Scott Henderson from Omaha; students from Lincoln High School and Community Members from the Iowa/Nebraska Immigrant Network; 50 fourth-grade students and teachers from Plattsmouth; Senator Baker's son, daughter-in-law, and grandson, Jeff, Hannah, and Hayden, from Kearney; Senator Stuthman's daughter, Amy Sander, Lisa Fricke, Deb Wallman, June Bowers, Margie Nowak, and Julie Dillon; Larry Harniseh from Wood River; members of NAP/AFSME Local 61 from across the state; Dennis Collins and Tracey Buettner from Norfolk; Steve Byran and Bob Butz from Holdrege; and Ray Pilakowski from Columbus.

The Doctor of the Day was Dr. William R. Dailey from Friend.

## ADJOURNMENT

At 12:01 p.m., on a motion by Senator Cornett, the Legislature adjourned until 10:00 a.m., Monday, March 14, 2005.

Patrick J. O'Donnell  
 Clerk of the Legislature



**FORTY-THIRD DAY - MARCH 14, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**FORTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, March 14, 2005

**PRAYER**

The prayer was offered by Senator Stuhr.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Bourne who was excused; and Senators Connealy, Mines, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-second day was approved.

**STANDING COMMITTEE REPORT**

**Revenue**

**LEGISLATIVE BILL 557.** Placed on General File as amended.  
Standing Committee amendment to LB 557:  
AM0785

- 1 1. Strike original section 1.
- 2 2. On page 4, line 1, after "amount" insert "not to
- 3 exceed the proceeds derived from a sales tax rate of one percent
- 4 imposed by a county for a County Visitors Improvement Fund"; and
- 5 strike beginning with "and" in line 23 through "are" in line 24 and
- 6 insert "is".
- 7 3. Renumber the remaining sections accordingly.

(Signed) David Landis, Chairperson

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**Correctly Engrossed**

The following bills were correctly engrossed: LBs 98, 243, 243A, 244, 246, and 503A.

ER9007

Enrollment and Review Change to LB 246

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, the matter beginning with "nursing" in line 1 through line 4 has been struck and "public health and welfare; to amend sections 71-434 and 71-6054, Reissue Revised Statutes of Nebraska; to change health care facility license fee provisions; to change provisions relating to nursing home administrators performing duties in more than one facility; and to repeal the original sections." inserted.

(Signed) Michael Flood, Chairperson

**SELECT FILE**

**LEGISLATIVE BILL 9.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 55.** E & R amendment, AM7037, found on page 779, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 450.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 247.** Senator Baker offered the following amendment:

AM0741

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 75-133, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 75-133. Whenever the commission has reason to believe
- 6 that any motor carrier, regulated motor carrier, ~~or~~ other common or
- 7 contract carrier as described in section 75-109, competitive
- 8 natural gas provider as defined in section 66-1848, or
- 9 jurisdictional utility as defined in section 66-1802 is in neglect
- 10 or violation of Chapter 75 or 86, it a statute or rule or
- 11 regulation under the jurisdiction of the commission, the commission

12 shall at once institute an investigation and fix a time and place  
 13 for hearing thereon, upon its own motion, and shall make any order  
 14 as it deems just and reasonable, including, but not limited to, ~~an~~  
 15 ~~order that the carrier cease and desist from continuing such~~  
 16 ~~neglect or violation made effective on the date of entry of the~~  
 17 ~~order by the commission an order revoking, suspending, or modifying~~  
 18 the certificate of public convenience and necessity, permit,  
 19 registration, license, or other authority granted by the commission  
 20 or a cease and desist order.

21 Sec. 2. Section 75-134, Reissue Revised Statutes of  
 22 Nebraska, is amended to read:

23 75-134. (1) A commission order entered after a hearing  
 24 shall be written and shall recite (a) a discussion of the facts of  
 1 a basic or underlying nature, (b) the ultimate facts, and (c) the  
 2 commission's reasoning or other authority relied upon by the  
 3 commission.

4 (2) Every order of the commission shall become effective  
 5 ten days after the date of the mailing of a copy of the order to  
 6 the parties of record except (a) when the commission prescribes a  
 7 later effective date, (b) as otherwise provided in section 75-121  
 8 or 75-139, (c) ~~as otherwise provided~~ for cease and desist orders  
 9 issued pursuant to section 75-133 which shall become effective on  
 10 the date of entry, or (d) for orders entered pursuant to section  
 11 75-319 which shall ~~be~~ become effective on the date of entry.

12 (3) Except as otherwise provided in this section or for  
 13 rate orders provided for in section 75-139, any appeal of a  
 14 commission order shall not stay enforcement of such order unless  
 15 otherwise ordered under subsection (3) of section 84-917.

16 Sec. 3. Original sections 75-133 and 75-134, Reissue  
 17 Revised Statutes of Nebraska, are repealed."

The Baker amendment was adopted with 32 ayes, 0 nays, 14 present and not  
 voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 544.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 122.** E & R amendment, AM7038, found on page  
 779, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 471.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 105.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 402.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 115.** E & R amendment, AM7036, found on page

780, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 342.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 640.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 291.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 406.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 241.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 97.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 451.** E & R amendment, AM7039, found on page 786, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 525.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 201.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 676.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 528.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 626.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 639.** E & R amendment, AM7050, found on page 792, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 306.** Senator Byars offered the following amendment:

FA82

1. On page 4, line 5, after the period insert "This section shall not apply to physicians and surgeons who are applicants for temporary practice rights under section 71-1,103(17)."

2. On page 7, line 1, strike "and settlements".

The Byars amendment was adopted with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 306A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 259.** E & R amendment, AM7051, found on page 793, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 476.** E & R amendment, AM7052, found on page 793, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 501.** Senator Beutler withdrew his pending amendment, AM0709, found on page 768.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 762.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 319.** E & R amendment, AM7053, found on page 793, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 78.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 331.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 453.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 534.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 320.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 396.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 754.** E & R amendment, AM7055, found on page 793, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 475.** E & R amendment, AM7054, found on page 793, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 380.** E & R amendment, AM7056, found on page 794, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 205.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 546.** E & R amendment, AM7030, found on page 732, was adopted.

Senator Brown renewed her pending amendment, AM0782, found on page 825.

The Brown amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

Senator Brown offered the following amendment:

AM0788

(Amendments to E & R amendments, AM7030)

- 1 1. On page 2, line 4, after "(1)" insert "Define
- 2 boundaries for the opportunity zone;
- 3 (2)".
- 4 2. Renumber the remaining subdivisions accordingly.

The Brown amendment was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 546A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 242.** E & R amendment, AM7023, found on page 628, was adopted.

Senator Beutler renewed his pending amendment, AM0779, found on page 823.

The Beutler amendment was adopted with 28 ayes, 0 nays, 19 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 563.** Senator Chambers renewed his pending amendment, FA31, found on page 582.

Pending.

### SELECT COMMITTEE REPORTS Enrollment and Review

**LEGISLATIVE BILL 217.** Placed on Select File as amended.

E & R amendment to LB 217:

AM7057

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Sections 1 to 8 of this act shall be known
- 4 and may be cited as the Public Facilities Construction and Finance
- 5 Act.
- 6 Sec. 2. It is the purpose of the Public Facilities
- 7 Construction and Finance Act to allow local governmental units
- 8 which cooperate with other governmental units to issue bonds to
- 9 finance joint projects which may be serviced by property taxes.

10 regardless of the restrictions on the issuance of debt contained in  
11 other statutory provisions, home rule charters, or the limitations  
12 in section 77-3442, for the acquisition, construction, financing,  
13 operation, and ownership of (1) public buildings and related  
14 improvements to real estate, recreational facilities and related  
15 improvements, flood control, and street and road construction and  
16 improvements and (2) information technology for libraries operated  
17 by counties, municipalities, school districts, educational service  
18 units, and community colleges.

19 Sec. 3. For purposes of the Public Facilities

20 Construction and Finance Act:

21 (1) Bond measure means a resolution or ordinance which  
22 authorizes bonds to be issued and sold in accordance with the act  
23 and which sets the terms of such bonds;

24 (2) Joint project means a project financed and operated  
1 by at least two or more qualified public agencies cooperating as a  
2 joint entity or joint public agency for (a) any public building or  
3 buildings and related improvements to real estate, including  
4 parking facilities, any recreational facilities and related  
5 improvements to real estate, any flood control, and any street and  
6 road construction and improvements and related fixtures and (b) any  
7 item of hardware or software used in providing for the delivery of  
8 information, including the purchasing of upgrades or related  
9 improvements to information technology for the operation of  
10 libraries operated by counties, municipalities, school districts,  
11 educational service units, and community colleges; and

12 (3) Qualified public agency means any city, village,  
13 municipal county, community college, county, educational service  
14 unit, rural or suburban fire protection district, hospital  
15 district, school district, and sanitary and improvement district.

16 Sec. 4. (1) In addition to any other borrowing powers  
17 provided for by law, a qualified public agency shall have the power  
18 to issue its negotiable bonds to any joint entity as defined in  
19 section 13-803 or to any joint public agency as defined in section  
20 13-2503 in connection with any joint project which is to be owned,  
21 operated, or financed by the joint entity or joint public agency  
22 for the benefit of the qualified public agency. The bonds may be  
23 issued only if the second largest participant in the joint project  
24 has a financial contribution in the joint project of at least  
25 twenty-five percent of the debt service. Such bonds may be issued  
26 after the qualified public agency has conducted a public hearing on  
27 the issuance of bonds. Notice of such public hearing shall be  
1 given by publication in a newspaper of general circulation within  
2 the territory of the qualified public agency by at least one  
3 publication occurring not less than ten days prior to the time of  
4 hearing. After the public hearing, the governing body of the  
5 qualified public agency may proceed to adopt a bond measure  
6 authorizing bonds.

7 (2) Notice of any such bond measure shall be given by

8 publication of notice of intention to issue bonds in a newspaper of  
9 general circulation within the territory of the qualified public  
10 agency at least once any time after the adoption of the bond  
11 measure. The notice shall state:  
12 (a) The name of the qualified public agency;  
13 (b) The purpose of the issue;  
14 (c) The principal amount of the issue;  
15 (d) The amount of annual debt service payment anticipated  
16 for the bonds, which may be stated as an approximation or estimate,  
17 and the anticipated duration for such debt service payments; and  
18 (e) The time and place where a copy of the form of the  
19 bond measure may be examined for a period of at least thirty days.  
20 (3) No election shall be required prior to the issuance  
21 of bonds under the Public Facilities Construction and Finance Act  
22 unless, within sixty days after the first publication of the notice  
23 of intention to issue bonds, a remonstrance petition against the  
24 issuance of bonds, signed by registered voters of the qualified  
25 public agency equal in number to fifteen percent or more of the  
26 number of votes cast in the qualified public agency for Governor at  
27 the general election next preceding the adoption of the bond  
1 measure, is filed with the clerk or secretary of the qualified  
2 public agency. If a remonstrance petition with the necessary  
3 number of qualified signatures is timely filed, the question shall  
4 be submitted to the voters of the qualified public agency at a  
5 general election or a special election called for the purpose of  
6 approving the bonds proposed to be issued. Any joint project for  
7 which bonds are issued in accordance with the procedures of the act  
8 shall not require any other approval or proceeding by the governing  
9 body or the voters of the qualified public agency.  
10 (4) No election shall be required for any qualified  
11 public agency not issuing bonds to participate in such joint  
12 project unless, within sixty days after the governing body of the  
13 qualified public agency adopts the measure approving the interlocal  
14 or cooperative agreement related to the joint project, a  
15 remonstrance petition, signed by registered voters of the qualified  
16 public agency equal in number to fifteen percent or more of the  
17 number of votes cast in the qualified public agency for Governor at  
18 the general election next preceding the approval of the interlocal  
19 or cooperative agreement, is filed with the clerk or secretary of  
20 the qualified public agency. If a remonstrance petition with the  
21 necessary number of qualified signatures is timely filed, the  
22 question shall be submitted to the voters of the qualified public  
23 agency at a general election or a special election called for the  
24 purpose of approving the interlocal or cooperative agreement  
25 related to the joint project.  
26 Sec. 5. For joint projects described in subdivision  
27 (2)(a) of section 3 of this act, the principal amount of bonds  
1 which may be issued by a qualified public agency under the Public  
2 Facilities Construction and Finance Act shall not exceed five

3 million dollars as to the total principal amount of such bonds  
4 which may be outstanding at any time, and the annual amounts due by  
5 reason of such bonds from each qualified public agency shall not  
6 exceed five percent of the restricted funds of the obligated  
7 qualified public agency in the year prior to issuance. The  
8 principal amount of bonds of qualified public agencies in the  
9 aggregate issued for any one such joint project shall not exceed  
10 five million dollars.

11 Sec. 6. For joint projects described in subdivision  
12 (2)(b) of section 3 of this act, the principal amount of bonds  
13 which may be issued by a qualified public agency under the Public  
14 Facilities Construction and Finance Act shall not exceed two  
15 hundred fifty thousand dollars for cities of the metropolitan and  
16 primary classes, one hundred thousand dollars for counties, cities  
17 of the first class, school districts, educational service units,  
18 and community colleges, and fifty thousand dollars for cities of  
19 the second class and villages, as to the total principal amount of  
20 such bonds which may be outstanding at any time, and the annual  
21 amounts due by reason of such bonds from each qualified public  
22 agency shall not exceed five percent of the restricted funds of the  
23 obligated qualified public agency in the year prior to issuance.  
24 The principal amount of bonds of a qualified public agency in the  
25 aggregate issued for any one such joint project shall not exceed  
26 two hundred and fifty thousand dollars for cities of the  
27 metropolitan and primary classes and one hundred thousand dollars  
1 for counties, cities of the first class, cities of the second  
2 class, villages, school districts, educational service units, and  
3 community colleges.

4 Sec. 7. Any qualified public agency which has issued  
5 bonds in accordance with the Public Facilities Construction and  
6 Finance Act shall levy and collect taxes on all the taxable  
7 property within the territory of the qualified public agency, in  
8 addition to all other taxes, for the purpose of paying the  
9 principal and interest of such bonds as the principal and interest  
10 become due. Taxes levied for such purposes shall not be subject to  
11 the limitations in section 77-3442. The levying of taxes to pay  
12 such bonds for any county shall be subject to the constitutional  
13 limitation upon levying taxes by a county.

14 Sec. 8. The Public Facilities Construction and Finance  
15 Act shall be independent of and in addition to any other provisions  
16 of the laws of the State of Nebraska or provisions of home rule  
17 charters, and bonds may be issued under the act for any purpose  
18 authorized in the act even though other provisions of the laws of  
19 the State of Nebraska or provisions of home rule charters may  
20 provide for the issuance of bonds for the same or similar purposes.  
21 The act shall not be considered amendatory of or limited by any  
22 other provisions of the laws of the State of Nebraska or provisions  
23 of home rule charters, and bonds may be issued under the act  
24 without complying with the restrictions or requirements of any

25 other provisions of the laws of the State of Nebraska or without  
26 complying with the restrictions or requirements of home rule  
27 charters. Nothing in the act shall prohibit or limit the issuance  
1 of bonds in accordance with the provisions of other applicable laws  
2 of the State of Nebraska or of home rule charters if the governing  
3 body determines to issue such bonds under such other laws or  
4 charter, or otherwise limit the provisions of any home rule  
5 charter.

6 Sec. 9. Section 13-808, Revised Statutes Supplement,  
7 2004, is amended to read:

8 13-808. (1) Any joint entity may issue such types of  
9 bonds as its governing body may determine subject only to any  
10 agreement with the holders of outstanding bonds, including bonds as  
11 to which the principal and interest are payable exclusively from  
12 all or a portion of the revenue from one or more projects, from one  
13 or more revenue-producing contracts, including securities acquired  
14 from any person, bonds issued by any qualified public agency under  
15 the Public Facilities Construction and Finance Act, or leases made  
16 by the joint entity with any person, including any of those public  
17 agencies which are parties to the agreement creating the joint  
18 entity, or from its revenue generally or which may be additionally  
19 secured by a pledge of any grant, subsidy, or contribution from any  
20 person or a pledge of any income or revenue, funds, or money of the  
21 joint entity from any source whatsoever or a mortgage or security  
22 interest in any real or personal property, commodity, product, or  
23 service or interest therein.

24 (2) Any bonds issued by such joint entity shall be issued  
25 on behalf of those public agencies which are parties to the  
26 agreement creating such joint entity and shall be authorized to be  
27 issued for the specific purpose or purposes for which the joint  
1 entity has been created. Such specific purposes may include, but  
2 shall not be limited to, joint projects authorized by the Public  
3 Facilities Construction and Finance Act; solid waste collection,  
4 management, and disposal; waste recycling; sanitary sewage  
5 treatment and disposal; public safety communications; correctional  
6 facilities; water treatment plants and distribution systems;  
7 drainage systems; flood control projects; fire protection services;  
8 ground water quality management and control; education and  
9 postsecondary education; hospital and other health care services;  
10 bridges, roads, and streets; and law enforcement.

11 (3) As an alternative to issuing bonds for financing  
12 public safety communication projects, any joint entity may enter  
13 into a financing agreement with the Nebraska Investment Finance  
14 Authority for such purpose.

15 (4) Any joint entity formed for purposes of providing or  
16 assisting with the provision of public safety communications may  
17 enter into an agreement with any other joint entity relating to (a)  
18 the operation, maintenance, or management of the property or  
19 facilities of such joint entity or (b) the operation, maintenance,

20 or management of the property or facilities of such other joint  
21 entity.

22 Sec. 10. Section 13-2530, Revised Statutes Supplement,  
23 2004, is amended to read:

24 13-2530. (1) Any joint public agency may issue such  
25 types of bonds as its board may determine subject only to any  
26 agreement with the holders of outstanding bonds, including bonds as  
27 to which the principal and interest are payable exclusively from  
1 all or a portion of the revenue from one or more projects, from one  
2 or more revenue-producing contracts, including securities acquired  
3 from any person, bonds issued by any qualified public agency under  
4 the Public Facilities Construction and Finance Act, or leases made  
5 by the joint public agency with any person, including any of the  
6 public agencies which are parties to the agreement creating the  
7 joint public agency, or from its revenue generally or which may be  
8 additionally secured by a pledge of any grant, subsidy, or  
9 contribution from any person or a pledge of any income or revenue,  
10 funds, or money of the joint public agency from any source  
11 whatsoever or a mortgage or security interest in any real or  
12 personal property, commodity, product, or service or interest  
13 therein.

14 (2) Any bonds issued by such joint public agency shall be  
15 issued on behalf of the joint public agency solely for the specific  
16 purpose or purposes for which the joint public agency has been  
17 created. Such specific purposes may include, but shall not be  
18 limited to, joint projects authorized by the Public Facilities  
19 Construction and Finance Act; solid waste collection, management,  
20 and disposal; waste recycling; sanitary sewage treatment and  
21 disposal; public safety communications; correctional facilities;  
22 water treatment plants and distribution systems; drainage systems;  
23 flood control projects; fire protection services; ground water  
24 quality management and control; education and postsecondary  
25 education; hospital and other health care services; bridges, roads,  
26 and streets; and law enforcement.

27 (3) As an alternative to issuing bonds for financing  
1 public safety communication projects, any joint public agency may  
2 enter into a financing agreement with the Nebraska Investment  
3 Finance Authority for such purpose.

4 (4) Any joint public agency formed for purposes of  
5 providing or assisting with the provision of public safety  
6 communications may enter into an agreement with any other joint  
7 public agency relating to (a) the operation, maintenance, or  
8 management of the property or facilities of such joint public  
9 agency or (b) the operation, maintenance, or management of the  
10 property or facilities of such other joint public agency.

11 Sec. 11. Section 13-2531, Revised Statutes Supplement,  
12 2004, is amended to read:

13 13-2531. Any joint public agency may from time to time  
14 issue its bonds in such principal amounts as its board determines

15 is necessary to provide sufficient funds to carry out any of the  
16 joint public agency's purposes and powers, including the  
17 establishment or increase of reserves, the payment of interest  
18 accrued during construction of a project and for such period  
19 thereafter as the board may determine, and the payment of all other  
20 costs or expenses of the joint public agency incident to and  
21 necessary or convenient to carry out its purposes and powers.  
22 Except as provided in section 4 of this act, bonds issued for  
23 purposes of the Public Facilities Construction and Finance Act may  
24 be issued with no requirement for a vote.

25 Sec. 12. If any section in this act or any part of any  
26 section is declared invalid or unconstitutional, the declaration  
27 shall not affect the validity or constitutionality of the remaining  
1 portions.

2 Sec. 13. Original sections 13-808, 13-2530, and 13-2531,  
3 Revised Statutes Supplement, 2004, are repealed."

4 2. On page 1, line 6, after the second semicolon insert  
5 "and"; and in line 7 strike beginning with the semicolon through  
6 "emergency".

**LEGISLATIVE BILL 675.** Placed on Select File.

**LEGISLATIVE BILL 675A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

## **STANDING COMMITTEE REPORTS**

### **Health and Human Services**

**LEGISLATIVE BILL 332.** Placed on General File as amended.

Standing Committee amendment to LB 332:

AM0795

1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 9-812, Revised Statutes Supplement,  
4 2004, is amended to read:  
5 9-812. (1) All money received from the operation of  
6 lottery games conducted pursuant to the State Lottery Act in  
7 Nebraska shall be credited to the State Lottery Operation Trust  
8 Fund, which fund is hereby created. All payments of expenses of  
9 the operation of the lottery games shall be made from the State  
10 Lottery Operation Cash Fund. In accordance with legislative  
11 appropriations, money for payments for expenses of the division  
12 shall be transferred from the State Lottery Operation Trust Fund to  
13 the State Lottery Operation Cash Fund, which fund is hereby  
14 created. All money necessary for the payment of lottery prizes  
15 shall be transferred from the State Lottery Operation Trust Fund to  
16 the State Lottery Prize Trust Fund, which fund is hereby created.  
17 The amount used for the payment of lottery prizes shall not be less  
18 than forty percent of the dollar amount of the lottery tickets

19 which have been sold. The State Treasurer shall transfer five  
20 million dollars from the State Lottery Operation Trust Fund to the  
21 General Fund within fifteen days after July 1, 2004. Until October  
22 1, 2003, at least twenty-five percent and beginning October 1,  
23 2003, and until January 1, 2008, a portion of the dollar amount of  
24 the lottery tickets which have been sold on an annualized basis  
1 shall be transferred from the State Lottery Operation Trust Fund to  
2 the Education Innovation Fund, the Nebraska Scholarship Fund, the  
3 Nebraska Environmental Trust Fund, and the Compulsive Gamblers  
4 Assistance Fund, except that the dollar amount transferred shall  
5 not be less than the dollar amount transferred to the funds in  
6 fiscal year 2002-03. On and after January 1, 2008, at least  
7 twenty-five percent of the dollar amount of the lottery tickets  
8 which have been sold on an annualized basis shall be transferred  
9 from the State Lottery Operation Trust Fund to the Education  
10 Innovation Fund, the Nebraska Scholarship Fund, the Nebraska  
11 Environmental Trust Fund, and the Compulsive Gamblers Assistance  
12 Fund. Of the money available to be transferred to the Education  
13 Innovation Fund, the Nebraska Scholarship Fund, the Nebraska  
14 Environmental Trust Fund, and the Compulsive Gamblers Assistance  
15 Fund, the first five hundred thousand dollars shall be transferred  
16 to the Compulsive Gamblers Assistance Fund to be used as provided  
17 in section 71-817. Twenty-four and three-fourths percent of the  
18 money remaining after the payment of prizes and operating expenses  
19 and the initial transfer to the Compulsive Gamblers Assistance Fund  
20 shall be transferred to the Education Innovation Fund. Twenty-four  
21 and three-fourths percent of the money remaining after the payment  
22 of prizes and operating expenses and the initial transfer to the  
23 Compulsive Gamblers Assistance Fund shall be transferred to the  
24 Nebraska Scholarship Fund. Forty-nine and one-half percent of the  
25 money remaining after the payment of prizes and operating expenses  
26 and the initial transfer to the Compulsive Gamblers Assistance Fund  
27 shall be transferred to the Nebraska Environmental Trust Fund to be  
1 used as provided in the Nebraska Environmental Trust Act. One  
2 percent of the money remaining after the payment of prizes and  
3 operating expenses and the initial transfer to the Compulsive  
4 Gamblers Assistance Fund shall be transferred to the Compulsive  
5 Gamblers Assistance Fund to be used as provided in section 71-817.  
6 (2) The Education Innovation Fund is hereby created. At  
7 least seventy-five percent of the lottery proceeds allocated to the  
8 Education Innovation Fund shall be available for disbursement. For  
9 each fiscal year except fiscal years 2003-04, 2004-05, 2005-06, and  
10 2006-07, the Education Innovation Fund shall be allocated in the  
11 following manner: Up to twenty percent to fund the mentor teacher  
12 program pursuant to the Quality Education Accountability Act; up to  
13 forty percent to the Attracting Excellence to Teaching Program Cash  
14 Fund to fund the Attracting Excellence to Teaching Program Act; and  
15 up to forty percent of the fund shall be allocated by the Governor.  
16 For fiscal years 2003-04 and 2004-05, the Education Innovation Fund

17 shall be allocated to the General Fund after operating expenses for  
18 the Excellence in Education Council are deducted. For fiscal years  
19 2005-06 and 2006-07, the Education Innovation Fund shall be  
20 allocated as follows: The first one million dollars each fiscal  
21 year shall be transferred to the School District Reorganization  
22 Fund, and the remaining amount shall be allocated to the General  
23 Fund after operating expenses for the Excellence in Education  
24 Council are deducted.

25 At the direction of the budget administrator of the  
26 Department of Administrative Services, the State Treasurer shall  
27 transfer available unobligated balances existing in the Education  
1 Innovation Fund to the General Fund on or before July 15, 2005, in  
2 such amounts as determined by the budget administrator, to include:  
3 Any unobligated money remaining as of June 30, 2004, and June 30,  
4 2005, in the Education Innovation Fund, appropriated for the  
5 Excellence in Education Council; investment income credited to the  
6 fund; and unobligated grant fund money returned to the state for  
7 credit to the Education Innovation Fund.

8 Allocations by the Governor shall be through incentive  
9 grants to encourage the development of strategic school improvement  
10 plans by school districts for accomplishing high performance  
11 learning and to encourage schools to establish innovations in  
12 programs or practices that result in restructuring of school  
13 organization, school management, and instructional programs which  
14 bring about improvement in the quality of education. Such  
15 incentive grants allocated by the Governor are intended to provide  
16 selected school districts, teachers or groups of teachers,  
17 nonprofit educational organizations, educational service units, or  
18 cooperatives funding for the allowable costs of implementing pilot  
19 projects and model programs.

20 From the funds allocated by the Governor, minigrants  
21 shall be available to school districts to support the development  
22 of strategic school improvement plans which shall include  
23 statements of purposes and goals for the districts. The plans  
24 shall also include the specific statements of improvement or  
25 strategic initiatives designed to improve quality learning for  
26 every student.

27 In addition to the minigrants granted for the development  
1 of strategic school improvement plans, school districts with annual  
2 budget expenditures of three hundred fifty thousand dollars or less  
3 are eligible for minigrants from the funds allocated by the  
4 Governor for the purposes allowed in subdivisions (2)(a) through  
5 (q) of this section. The amount of this type of minigrant shall  
6 not exceed five thousand dollars. The school district shall  
7 present a curriculum support plan with its application for the  
8 grant. The curriculum support plan must show how the district is  
9 working to achieve one or more of the allowed purposes and how the  
10 grant will be used to directly advance the plan to achieve one or  
11 more of these purposes. The plan must be signed by the school

12 administrator and a school board representative. The application  
13 for the grant shall be brief. The Excellence in Education Council  
14 shall select the recipients of this type of minigrant and shall  
15 administer such minigrants.

16 From the funds allocated by the Governor, major  
17 competitive grants shall be available to support innovative  
18 programs which are directly related to the strategic school  
19 improvement plans. The development of a strategic school  
20 improvement plan by a school district shall be required before a  
21 grant is awarded. Annual reports shall be made by program  
22 recipients documenting the effectiveness of the program in  
23 improving the quality of education as designed in the strategic  
24 school improvement plans. Special consideration shall be given to  
25 plans which contain public or private matching funds and  
26 cooperative agreements, including agreements for in-kind services.  
27 Purposes for which such major competitive grants would be offered

1 shall include:

- 2 (a) Professional staff development programs to provide  
3 funds for teacher and administrator training and continuing  
4 education to upgrade teaching and administrative skills;
- 5 (b) The development of strategic school improvement plans  
6 by school districts;
- 7 (c) Educational technology assistance to public schools  
8 for the purchase and operation of computers, telecommunications  
9 equipment and services, and other forms of technological innovation  
10 which may enhance classroom teaching, instructional management, and  
11 districtwide administration. Telecommunications equipment,  
12 services, and forms of technical innovation shall be approved only  
13 after review by the technical panel created in section 86-521;
- 14 (d) An educational accountability program to develop an  
15 educational indicators system to measure the performance and  
16 outcomes of public schools and to ensure efficiency in operations;
- 17 (e) Alternative programs for students, including  
18 underrepresented groups, at-risk students, and dropouts;
- 19 (f) Programs that demonstrate improvement of student  
20 performance against valid national and international achievement  
21 standards;
- 22 (g) Early childhood and parent education which emphasizes  
23 child development;
- 24 (h) Programs using decisionmaking models that increase  
25 involvement of parents, teachers, and students in school  
26 management;
- 27 (i) Increased involvement of the community in order to  
1 achieve increased confidence in and satisfaction with its schools;
- 2 (j) Development of magnet or model programs designed to  
3 facilitate desegregation;
- 4 (k) Programs that address family and social issues  
5 impairing the learning productivity of students;
- 6 (l) Programs enhancing critical and higher-order thinking

- 7 capabilities;
- 8 (m) Programs which produce the quality of education  
9 necessary to guarantee a competitive work force;
- 10 (n) Programs designed to increase productivity of staff  
11 and students through innovative use of time;
- 12 (o) Training programs designed to benefit teachers at all  
13 levels of education by increasing their ability to work with  
14 educational technology in the classroom;
- 15 (p) Approved accelerated or differentiated curriculum  
16 programs under sections 79-1106 to 79-1108.03; and
- 17 (q) Programs for children from birth to age twenty-one  
18 years with disabilities receiving special education under the  
19 Special Education Act and children from birth to age twenty-one  
20 years needing support services as defined in section 79-1125.01,  
21 which programs demonstrate improved outcomes for children from  
22 birth to age twenty-one years through emphasis on prevention and  
23 collaborative planning.
- 24 The Governor shall establish the Excellence in Education  
25 Council. The Governor shall appoint eleven members to the council  
26 including representatives of educational organizations,  
27 postsecondary educational institutions, the business community, and  
1 the general public, members of school boards and parent education  
2 associations, school administrators, and at least four teachers who  
3 are engaged in classroom teaching. The State Department of  
4 Education shall provide staff support for the council to administer  
5 the Education Innovation Fund, including the Quality Education  
6 Accountability Act. The council shall have the following powers  
7 and duties:
- 8 (i) In consultation with the department, develop and  
9 publish criteria for the awarding of incentive grants allocated by  
10 the Governor for programs pursuant to this subsection, including  
11 minigrants;
- 12 (ii) Provide recommendations to the Governor regarding  
13 the selection of projects to be funded and the distribution and  
14 duration of project funding;
- 15 (iii) Establish standards, formats, procedures, and  
16 timelines for the successful implementation of approved programs  
17 funded by incentive grants allocated by the Governor from the  
18 Education Innovation Fund;
- 19 (iv) Assist school districts in determining the  
20 effectiveness of the innovations in programs and practices and  
21 measure the subsequent degree of improvement in the quality of  
22 education;
- 23 (v) Consider the reasonable distribution of funds across  
24 the state and all classes of school districts;
- 25 (vi) Carry out its duties pursuant to the Quality  
26 Education Accountability Act; and
- 27 (vii) Provide annual reports to the Governor concerning  
1 programs funded by the fund. Each report shall include the number

2 of applicants and approved applicants, an overview of the various  
3 programs, objectives, and anticipated outcomes, and detailed  
4 reports of the cost of each program.

5 To assist the council in carrying out its duties, the  
6 State Board of Education shall, in consultation with the council,  
7 adopt and promulgate rules and regulations establishing criteria,  
8 standards, and procedures regarding the selection and  
9 administration of programs funded from the Education Innovation  
10 Fund, including the Quality Education Accountability Act.

11 (3) Recipients of incentive grants allocated by the  
12 Governor from the Education Innovation Fund shall be required to  
13 provide, upon request, such data relating to the funded programs  
14 and initiatives as the Governor deems necessary.

15 (4) Any money in the State Lottery Operation Trust Fund,  
16 the State Lottery Operation Cash Fund, the State Lottery Prize  
17 Trust Fund, or the Education Innovation Fund available for  
18 investment shall be invested by the state investment officer  
19 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
20 State Funds Investment Act.

21 (5) Unclaimed prize money on a winning lottery ticket  
22 shall be retained for a period of time prescribed by rules and  
23 regulations. If no claim is made within such period, the prize  
24 money shall be used at the discretion of the Tax Commissioner for  
25 any of the purposes prescribed in this section, except that,  
26 beginning July 1, 2005, the State Treasurer shall transfer five  
27 hundred thousand dollars of such prize money in each fiscal year to  
1 the Compulsive Gamblers Assistance Fund.

2 Sec. 2. Section 71-817, Revised Statutes Supplement,  
3 2004, is amended to read:

4 71-817. The Compulsive Gamblers Assistance Fund is  
5 created. The fund shall include revenue transferred from the State  
6 Lottery Operation Trust Fund under section 9-812 and the Charitable  
7 Gaming Operations Fund under section 9-1,101 and any other revenue  
8 received by the division for credit to the fund from any other  
9 public or private source, including, but not limited to,  
10 appropriations, grants, donations, gifts, devises, ~~or~~ bequests,  
11 fees, or reimbursements. The division shall administer the fund  
12 for the treatment of problem gamblers as recommended by the the  
13 State Advisory Committee on Problem Gambling and Addiction Services  
14 established under section 71-816 and shall spend no more than ten  
15 percent of the money appropriated to the fund for administrative  
16 costs. The Director of Administrative Services shall draw warrants  
17 upon the Compulsive Gamblers Assistance Fund upon the presentation  
18 of proper vouchers by the division. Money from the Compulsive  
19 Gamblers Assistance Fund shall be used exclusively for the purpose  
20 of providing assistance to agencies, groups, organizations, and  
21 individuals that provide education, assistance, and counseling to  
22 individuals and families experiencing difficulty as a result of  
23 problem gambling, to promote the awareness of gamblers assistance

24 programs, and to pay the costs and expenses of the division and the  
25 committee with regard to problem gambling. The division shall not  
26 provide any direct services to problem gamblers or their families.  
27 Funds appropriated from the Compulsive Gamblers Assistance Fund  
1 shall not be granted or loaned to or administered by any regional  
2 behavioral health authority unless the authority is a direct  
3 provider of a problem gamblers assistance program. Any money in  
4 the fund available for investment shall be invested by the state  
5 investment officer pursuant to the Nebraska Capital Expansion Act  
6 and the Nebraska State Funds Investment Act.  
7 Sec. 3. This act becomes operative on July 1, 2005.  
8 Sec. 4. Original sections 8-912 and 71-817, Revised  
9 Statutes Supplement, 2004, are repealed.  
10 Sec. 5. Since an emergency exists, this act takes effect  
11 when passed and approved according to law."

**LEGISLATIVE BILL 445.** Placed on General File as amended.

Standing Committee amendment to LB 445:

AM0799

1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 71-101, Revised Statutes Supplement,  
4 2004, is amended to read:  
5 71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to  
6 71-1,338, 71-1,343 to 71-1,349, and 71-1301 to 71-1354, and ~~71-2801~~  
7 ~~to 71-2823~~ the Physical Therapy Practice Act shall be known and may  
8 be cited as the Uniform Licensing Law.  
9 For purposes of the Uniform Licensing Law, unless the  
10 context otherwise requires:  
11 (1) Board or professional board means one of the boards  
12 appointed by the State Board of Health pursuant to sections 71-111  
13 and 71-112;  
14 (2) Licensed, when applied to any licensee in any of the  
15 professions named in section 71-102, means a person licensed under  
16 the Uniform Licensing Law;  
17 (3) Profession or health profession means any of the  
18 several groups named in section 71-102;  
19 (4) Department means the Department of Health and Human  
20 Services Regulation and Licensure;  
21 (5) Whenever a particular gender is used, it is construed  
22 to include both the masculine and the feminine, and the singular  
23 number includes the plural when consistent with the intent of the  
24 Uniform Licensing Law;  
1 (6) License, licensing, or licensure means permission to  
2 engage in a health profession which would otherwise be unlawful in  
3 this state in the absence of such permission and which is granted  
4 to individuals who meet prerequisite qualifications and allows them  
5 to perform prescribed health professional tasks and use a  
6 particular title;

7 (7) Certificate, certify, or certification, with respect  
8 to professions, means a voluntary process by which a statutory,  
9 regulatory entity grants recognition to an individual who has met  
10 certain prerequisite qualifications specified by such regulatory  
11 entity and who may assume or use the word certified in the title or  
12 designation to perform prescribed health professional tasks. When  
13 appropriate, certificate means a document issued by the department  
14 which designates particular credentials for an individual;

15 (8) Lapse means the termination of the right or privilege  
16 to represent oneself as a licensed, certified, or registered person  
17 and to practice the profession when a license, certificate, or  
18 registration is required to do so;

19 (9) Credentialing means the totality of the process  
20 associated with obtaining state approval to provide health care  
21 services or human services or changing aspects of a current  
22 approval. Credentialing grants permission to use a protected title  
23 that signifies that a person is qualified to provide the services  
24 of a certain profession. Credential includes a license,  
25 certificate, or registration; and

26 (10) Dependence means a compulsive or chronic need for or  
27 an active addiction to alcohol or any controlled substance or  
1 narcotic drug.

2 Sec. 2. Sections 2 to 29 of this act shall be known and  
3 may be cited as the Physical Therapy Practice Act.

4 Sec. 3. The purpose of the Physical Therapy Practice Act  
5 is to update and recodify statutes relating to the practice of  
6 physical therapy. Nothing in the act shall be construed to expand  
7 the scope of practice of physical therapy as it existed prior to  
8 the effective date of this act.

9 Sec. 4. For purposes of the Physical Therapy Practice  
10 Act, the definitions found in sections 5 to 20 of this act apply.

11 Sec. 5. Approved educational program means a program for  
12 the education and training of physical therapists and physical  
13 therapist assistants approved by the board pursuant to section 28  
14 of this act.

15 Sec. 6. Board means the Board of Physical Therapy.

16 Sec. 7. Department means the Department of Health and  
17 Human Services Regulation and Licensure.

18 Sec. 8. Direct supervision means supervision in which  
19 the supervising practitioner is physically present and immediately  
20 available and does not include supervision provided by means of  
21 telecommunication.

22 Sec. 9. Evaluation means the process of making clinical  
23 judgments based on data gathered from examination of a patient.

24 Sec. 10. General supervision means supervision either  
25 onsite or by means of telecommunication.

26 Sec. 11. Jurisdiction of the United States means any  
27 state of the United States, the District of Columbia, the  
1 Commonwealth of Puerto Rico, or any American territory.

- 2 Sec. 12. Manual therapy means skilled hand movements  
3 intended to improve tissue extensibility, increase range of motion,  
4 induce relaxation, mobilize or manipulate joints or soft tissue,  
5 modulate pain, or reduce soft tissue restrictions, swelling, or  
6 inflammation.
- 7 Sec. 13. Non-treatment-related tasks means clerical,  
8 housekeeping, facility maintenance, or patient transportation  
9 services related to the practice of physical therapy.
- 10 Sec. 14. Physical therapist means a person licensed to  
11 practice physical therapy under the Physical Therapist Practice  
12 Act.
- 13 Sec. 15. Physical therapist assistant means a person  
14 certified as a physical therapist assistant under the Physical  
15 Therapist Practice Act.
- 16 Sec. 16. Physical therapy or physiotherapy means:  
17 (1) Examining, evaluating, and testing individuals with  
18 mechanical, physiological, and developmental impairments,  
19 functional limitations, and disabilities or other conditions  
20 related to health and movement and, through analysis of the  
21 evaluative process, developing a plan of therapeutic intervention  
22 and prognosis while assessing the ongoing effects of the  
23 intervention;
- 24 (2) Alleviating impairment, functional limitation, or  
25 disabilities by designing, implementing, or modifying therapeutic  
26 interventions which may include any of the following: Therapeutic  
27 exercise; functional training in home, community, or work  
1 integration or reintegration related to physical movement and  
2 mobility; therapeutic massage; manual therapy; recommendation,  
3 application, and fabrication of assistive, adaptive, protective,  
4 and supportive devices and equipment; airway clearance techniques;  
5 integumentary protection techniques; nonsurgical debridement and  
6 wound care; physical agents or modalities; mechanical and  
7 electrotherapeutic modalities; and patient-related instruction; but  
8 which does not include the making of a medical diagnosis;
- 9 (3) Purchasing, storing, and administering topical and  
10 aerosol medication in compliance with applicable rules and  
11 regulations of the Board of Pharmacy regarding the storage of such  
12 medication;
- 13 (4) Reducing the risk of injury, impairment, functional  
14 limitation, or disability, including the promotion and maintenance  
15 of fitness, health, and wellness; and
- 16 (5) Engaging in administration, consultation, education,  
17 and research.
- 18 Sec. 17. Physical therapy aide means a person who is  
19 trained under the direction of a physical therapist and who  
20 performs treatment-related and non-treatment-related tasks.
- 21 Sec. 18. Student means a person enrolled in an approved  
22 educational program.
- 23 Sec. 19. Testing means standard methods and techniques

24 used to gather data about a patient, including electrodiagnostic  
25 and electrophysiologic tests and measures.

26 Sec. 20. Treatment-related tasks means activities

27 related to the practice of physical therapy that do not require the  
1 clinical decisionmaking of a physical therapist or the clinical  
2 problem solving of a physical therapist assistant.

3 Sec. 21. The Physical Therapy Practice Act does not  
4 apply to:

5 (1) A member of another profession who is credentialed by  
6 the department and who is acting within the scope of practice of  
7 his or her profession;

8 (2) A student in an approved educational program who is  
9 performing physical therapy or related services within the scope of  
10 such program and under the direct supervision of a physical  
11 therapist;

12 (3) A person practicing physical therapy or as a physical  
13 therapist assistant in this state pursuant to federal regulations  
14 for state licensure of health care providers for the United States  
15 Armed Forces, the United States Public Health Service, or the  
16 United States Department of Veterans Affairs;

17 (4) A person credentialed to practice physical therapy or  
18 as a physical therapist assistant in another jurisdiction of the  
19 United States or in another country who is teaching physical  
20 therapy or demonstrating or providing physical therapy or related  
21 services in connection with an educational program in this state;

22 (5) A person credentialed to practice physical therapy in  
23 another jurisdiction of the United States or in another country  
24 who, by contract or employment, is providing physical therapy or  
25 related services in this state to individuals affiliated with  
26 established athletic teams, athletic organizations, or performing  
27 arts companies while such teams, organizations, or companies are  
1 present and temporarily practicing, competing, or performing in  
2 this state.

3 Sec. 22. (1) No person may practice physical therapy,  
4 hold oneself out as a physical therapist or physiotherapist, or use  
5 the abbreviation PT in this state without being licensed by the  
6 department. No person may practice as a physical therapist  
7 assistant, hold oneself out as a physical therapist assistant, or  
8 use the abbreviation PTA in this state without being certified by  
9 the department.

10 (2) A physical therapist may use the title physical  
11 therapist and the abbreviation PT in connection with his or her  
12 name or place of business. A physical therapist assistant may use  
13 the title physical therapist assistant and the abbreviation PTA in  
14 connection with his or her name.

15 (3) Any person who offers or provides services to another  
16 or bills another for services shall not characterize such services  
17 as physical therapy or physiotherapy unless the person offering,  
18 providing, or billing for such services is a physical therapist or

19 a physical therapist assistant acting under the general supervision  
20 of a physical therapist.

21 Sec. 23. Section 71-2803, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 ~~71-2803.~~ Every applicant for a license to practice  
24 physical therapy shall:

25 (1) Present proof of completion of an approved  
26 educational program; ~~as defined in section 71-2804;~~

27 (2) In the case of an applicant who has been trained as a  
1 physical therapist in a foreign country, (a) present documentation  
2 of completion of a course of professional instruction substantially  
3 equivalent to an approved program accredited by the ~~American~~  
4 ~~Physical Therapy Association Commission on Accreditation in~~  
5 Physical Therapy Education or by an equivalent accrediting agency  
6 as determined by the ~~Board of Physical Therapy board~~ and (b)  
7 present proof of proficiency in the English language; and

8 (3) ~~Except as provided in section 71-2805, successfully~~  
9 Successfully complete an examination approved by the department ~~on~~  
10 the upon recommendation of the board.

11 Sec. 24. Every applicant for a certificate to practice  
12 as a physical therapist assistant shall:

13 (1) Present proof of completion of an approved  
14 educational program; and

15 (2) Successfully complete an examination approved by the  
16 department upon recommendation of the board.

17 Sec. 25. Section 71-2810, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 ~~71-2810. Notwithstanding any other provisions of law, a~~

20 (1) A physical therapist assistant may perform physical therapy  
21 services when he or she renders such services under the general  
22 supervision of a licensed physical therapist, or group of licensed  
23 physical therapists approved by the board, except that no physical  
24 therapist assistant shall perform the following:

25 (1) ~~(a)~~ Interpretation of physician referrals;

26 (2) ~~Plan treatment programs~~ (b) Development of a plan of  
27 care;

1 (3) ~~(c)~~ Initial evaluations or reevaluation of patients;

2 (4) ~~(d)~~ Readjustment of ~~treatment programs~~ a plan of care  
3 without consultation with the certified and licensed supervising  
4 physical therapist; or

5 (5) ~~(e)~~ Discharge planning for patients. Tests and  
6 measurements, with the exception of goniometry and functional  
7 muscle testing;

8 (6) ~~Home instructions to patients or families;~~

9 (7) ~~Joint assessment and mobilization; or~~

10 (8) ~~Complex neurodevelopmental treatments.~~

11 (2) A physical therapist may provide general supervision  
12 for no more than two physical therapist assistants. A physical  
13 therapist shall not establish a satellite office at which a

14 physical therapist assistant provides care without the general  
 15 supervision of the physical therapist.

16 (3) A physical therapist shall reevaluate or reexamine on  
 17 a regular basis each patient receiving physical therapy services  
 18 from a physical therapist assistant under the general supervision  
 19 of the physical therapist.

20 (4) A supervising physical therapist and the physical  
 21 therapist assistant under general supervision shall review the plan  
 22 of care on a regular basis for each patient receiving physical  
 23 therapy services from the physical therapist assistant.

24 (5) A physical therapist assistant may document physical  
 25 therapy services provided by the physical therapist assistant  
 26 without the signature of the supervising physical therapist.

27 (6) A physical therapist assistant may act as a clinical  
 1 instructor for physical therapist assistant students in an approved  
 2 educational program.

3 Sec. 26. (1) For each patient under his or her care, a  
 4 physical therapist shall:

5 (a) Be responsible for managing all aspects of physical  
 6 therapy services provided to the patient and assume legal liability  
 7 for physical therapy and related services provided under his or her  
 8 supervision;

9 (b) Provide an initial evaluation and documentation of  
 10 the evaluation;

11 (c) Provide periodic reevaluation and documentation of  
 12 the reevaluation;

13 (d) Provide documentation for discharge, including the  
 14 patient's response to therapeutic intervention at the time of  
 15 discharge; and

16 (e) Be responsible for accurate documentation and billing  
 17 for services provided.

18 (2) For each patient under his or her care on each date  
 19 physical therapy services are provided to such patient, a physical  
 20 therapist shall:

21 (a) Provide all therapeutic interventions that require  
 22 the expertise of a physical therapist; and

23 (b) Determine the appropriate use of physical therapist  
 24 assistants or physical therapy aides.

25 Sec. 27. A physical therapy aide may perform  
 26 treatment-related and non-treatment-related tasks under the  
 27 supervision of a physical therapist or a physical therapist  
 1 assistant.

2 Sec. 28. Section 71-2804, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:

4 71-2804. The board may approve programs for ~~For purposes~~  
 5 ~~of sections 71-2801 to 71-2823, approved educational program shall~~  
 6 ~~mean a program of physical therapy or physical therapist assistant~~  
 7 ~~education and training, approved by the Board of Physical Therapy.~~  
 8 Such approval may be based on the program's accreditation by the

9 ~~American Physical Therapy Association Commission on Accreditation~~  
 10 ~~in Physical Therapy Education or by equivalent standards~~  
 11 ~~established by the board.~~  
 12 Sec. 29. Section 71-2807, Reissue Revised Statutes of  
 13 Nebraska, is amended to read:  
 14 ~~71-2807. The Board of Physical Therapy shall, with the~~  
 15 ~~approval of the department, adopt and promulgate rules and~~  
 16 ~~regulations as necessary for the administration of sections 71-2801~~  
 17 ~~to 71-2823. Such rules and regulations shall include, but not be~~  
 18 ~~limited to, a definition for onsite supervision of a physical~~  
 19 ~~therapist assistant and the proper utilization of such assistant by~~  
 20 ~~a physical therapist and what constitutes an emergency not~~  
 21 ~~requiring onsite supervision of a licensed physical therapist. The~~  
 22 ~~department, upon recommendation of the board, shall adopt and~~  
 23 ~~promulgate rules and regulations to carry out the Physical Therapy~~  
 24 ~~Practice Act. All rules and regulations adopted and promulgated~~  
 25 ~~under this section prior to the effective date of this act shall be~~  
 26 ~~effective until revised, amended, repealed, or nullified pursuant~~  
 27 ~~to law.~~

1 Sec. 30. Original sections 71-2803, 71-2804, 71-2807,  
 2 and 71-2810, Reissue Revised Statutes of Nebraska, and section  
 3 71-101, Revised Statutes Supplement, 2004, are repealed.

4 Sec. 31. The following sections are outright repealed:  
 5 Sections 71-2801, 71-2802, 71-2803.01, 71-2805, 71-2808, 71-2809,  
 6 71-2811, 71-2812, 71-2814 to 71-2801, 71-2802, 71-2817, and 71-2820  
 7 to 71-2822, Reissue Revised Statutes of Nebraska.".

# **LEGISLATIVE BILL 709.** Placed on General File as amended.

Standing Committee amendment to LB 709:

AM0772

1 1. Strike the original sections and insert the following  
 2 new sections:

3 "Section 1. Sections 1 to 6 of this act shall be known  
 4 and may be cited as the Medicaid Reform Act. The Medicaid Reform  
 5 Act terminates on January 1, 2006.

6 Sec. 2. The Legislature finds that:

7 (1) The medical assistance program has resulted in  
 8 significantly increased expenditures by the State of Nebraska;

9 (2) In response to such increased expenditures, the  
 10 Legislature has taken various actions affecting the availability  
 11 and adequacy of medical assistance benefits to Nebraska residents  
 12 under the program;

13 (3) As a result of such increased expenditures, the  
 14 medical assistance program has become fiscally unsustainable; and

15 (4) Fundamental reform of the medical assistance program  
 16 is necessary in order to ensure future sustainability of the  
 17 program for the benefit of Nebraska residents.

18 Sec. 3. The purpose of the Medicaid Reform Act is to  
 19 provide for reform of the medical assistance program established in

20 section 68-1018, also known as medicaid, and a substantive  
21 recodification of statutes relating to such program, including, but  
22 not limited to, the enactment of policies to (1) control the growth  
23 of medicaid spending, (2) ensure future sustainability of the  
24 medical assistance program for Nebraska residents, (3) establish  
1 priorities and ensure flexibility in the allocation of medical  
2 assistance benefits, and (4) provide alternatives to medicaid  
3 eligibility for Nebraska residents.

4 Sec. 4. It is the intent of the Legislature to provide  
5 for the development of a medicaid reform plan for the State of  
6 Nebraska and the enactment of necessary and appropriate legislation  
7 to implement such plan.

8 Sec. 5. The Governor and the chairperson of the Health  
9 and Human Services Committee of the Legislature shall each  
10 designate one person who shall be responsible to the Governor and  
11 the committee for the development of a medicaid reform plan for the  
12 State of Nebraska. Such plan shall be developed in consultation  
13 with the Governor, the committee, the Policy Cabinet established in  
14 section 81-3009, and the federal Centers for Medicare and Medicaid  
15 Services. Public input shall be solicited, and at least one public  
16 meeting shall be conducted in each congressional district prior to  
17 submission of the plan. Monthly reports shall be provided to the  
18 Governor and the committee during preparation of the plan. Such  
19 plan shall be submitted to the Governor and the Legislature no  
20 later than December 1, 2005, and shall include recommendations for  
21 the development of medicaid plan amendments and waivers and draft  
22 legislation necessary to support such plan. The committee shall  
23 conduct a public hearing on or before December 15, 2005, to receive  
24 public input regarding the plan.

25 Sec. 6. The chairperson of the Health and Human Services  
26 Committee of the Legislature, in consultation with the committee,  
27 shall prepare and introduce legislation in the Ninety-ninth  
1 Legislature, Second Session, to implement the medicaid reform plan  
2 developed under section 5 of this act.

3 Sec. 7. Sections 7 to 11 of this act shall be known and  
4 may be cited as the Long-Term Care Partnership Program Development  
5 Act. The Long-Term Care Partnership Program Development Act  
6 terminates on January 1, 2006.

7 Sec. 8. The purpose of the Long-Term Care Partnership  
8 Program Development Act is to provide for the development of a plan  
9 to establish a long-term care partnership program in the State of  
10 Nebraska and the enactment of necessary and appropriate legislation  
11 to implement such plan and such program.

12 Sec. 9. The Legislature finds that:

- 13 (1) The medical assistance program has resulted in
- 14 significantly increased expenditures by the State of Nebraska;
- 15 (2) Efforts must be made to encourage the purchase of
- 16 long-term care insurance and reduce reliance on medicaid to fund
- 17 long-term nursing home services and home or community-based

18 services;

19 (3) Several states have enacted legislation to establish  
20 long-term care partnership programs that contain asset protection  
21 components, including estate asset protection after the death of  
22 the insured;

23 (4) The federal Omnibus Budget Reconciliation Act of 1993  
24 limited state asset protection programs established after May 14,  
25 1993, by requiring recovery from the estates of all persons  
26 receiving services under medicaid;

27 (5) Several states have memorialized Congress to remove  
1 such restrictions on state asset protection programs; and

2 (6) It is prudent to develop a plan for the establishment  
3 of a long-term care partnership program in the State of Nebraska  
4 and the enactment of necessary and appropriate legislation to  
5 implement such plan and such program in the event that current  
6 federal restrictions are removed.

7 Sec. 10. The Nebraska Health and Human Services System  
8 and the Department of Insurance, in consultation with the Health  
9 and Human Services Committee of the Legislature, shall prepare a  
10 plan for the establishment of a long-term care partnership program  
11 in the State of Nebraska. Such plan shall be submitted to the  
12 Governor and the Legislature no later than December 1, 2005. In  
13 preparing such plan, the Nebraska Health and Human Services System  
14 and the Department of Insurance shall analyze partnership programs  
15 established by states prior to the enactment of federal  
16 restrictions on the establishment of such program under the federal  
17 Omnibus Budget Reconciliation Act of 1993.

18 Sec. 11. The chairperson of the Health and Human  
19 Services Committee of the Legislature, in consultation with members  
20 of the committee, shall prepare and introduce legislation in the  
21 Ninety-ninth Legislature, Second Session, to implement the plan  
22 developed under section 10 of this act.

23 Sec. 12. Since an emergency exists, this act takes  
24 effect when passed and approved according to law."

(Signed) Jim Jensen, Chairperson

### Natural Resources

**LEGISLATIVE BILL 120.** Placed on General File as amended.  
Standing Committee amendment to LB 120:  
AM0784

1 1. On page 2, line 7, after "(2)" insert "An existing  
2 animal feeding operation may not expand if its livestock waste  
3 control facility is located within one mile of a designated cold  
4 water class A stream segment delineated pursuant to section 54-2421  
5 and the same cold water class A stream watershed as the animal  
6 feeding operation, except that an existing animal feeding operation  
7 used for research sponsored by the University of Nebraska at a

8 facility owned by the University of Nebraska may expand if the  
 9 department determines based on scientific information provided in  
 10 the application or other available information that the proposed  
 11 expansion does not pose a potential threat to the stream.  
 12 (3); in line 24 after "application" insert "or other  
 13 available information"; and in line 26 strike "(3)", show as  
 14 stricken, and insert "(4)".

**LEGISLATIVE BILL 140.** Placed on General File as amended.  
 Standing Committee amendment to LB 140:  
 AM0792

- 1 1. On page 2, line 5, strike "nine", show as stricken,
- 2 and insert "ten"; and in line 12 after "Services" insert
- 3 "Regulation and Licensure".

**LEGISLATIVE BILL 293.** Placed on General File as amended.  
 Standing Committee amendment to LB 293:  
 AM0801

- 1 1. On page 3, line 7, strike "notification", show as
- 2 stricken, and insert "a copy" and before "application" insert
- 3 "submitted"; in lines 8, 9, and 11 reinstate the stricken matter;
- 4 in line 12 strike "twenty", show as stricken, and insert "thirty";
- 5 and strike the new matter in lines 16 through 24.
- 6 2. On page 4, line 5, strike the new matter and
- 7 reinstate the stricken matter.

**LEGISLATIVE BILL 351.** Placed on General File as amended.  
 Standing Committee amendment to LB 351:  
 AM0794

- 1 1. On page 4, lines 3 and 4, strike "or low-income
- 2 persons"; in line 4 after the semicolon insert "and"; strike
- 3 beginning with "One" in line 5 through "(xvii)" in line 6; strike
- 4 beginning with "The" in line 12 through the period in line 14; and
- 5 in line 19 strike the first comma and insert "and" and strike "
- 6 and (1)(b)(xvii)".

(Signed) Ed Schrock, Chairperson

### **Business and Labor**

**LEGISLATIVE BILL 442.** Indefinitely postponed.

(Signed) Douglas Cunningham, Chairperson

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 54.** Introduced by Price, 26.

WHEREAS, the Lincoln Northeast girls' basketball team won the Class A

Girls' State High School Basketball Championship with a fifty-two to forty-five victory over Bellevue East; and

WHEREAS, the Rockets went undefeated this season with twenty-four straight wins; and

WHEREAS, the Rockets clinched the first girls' state basketball title in school history under Coach Rich Olson's first year as coach at Lincoln Northeast; and

WHEREAS, the Rockets became the first undefeated Class A state champion since 1995 and the first undefeated team in Coach Olson's thirty-five year career; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Lincoln Northeast girls' basketball team be congratulated for their exemplary effort this season and in the Girls' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Coach Rich Olson and Lincoln Northeast High School.

Laid over.

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 273A.** Introduced by Cunningham, 40.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 273, Ninety-ninth Legislature, First Session, 2005.

### **AMENDMENT - Print in Journal**

Senator Baker filed the following amendment to LB 680:  
AM0561

- 1 1. Strike section 4.
- 2 2. On page 2, line 20, strike the new matter and
- 3 reinstate the stricken matter; strike lines 26 and 27 and insert
- 4 "Legislature shall transfer four hundred"; and in line 28 after
- 5 "Fund" insert "for each of fiscal years 2005-06 through 2008-09".
- 6 3. Renumber the remaining sections accordingly.

### **MOTION - Print in Journal**

Senator Chambers filed the following motion to LB 563:  
Bracket.

**EXPLANATION OF VOTES**

Had I been present, I would have voted "aye" on final passage of LBs 1, 2, 3, 11, 15, 16, 17, 18, 20, 21, 33, 37, 51, 52, 53, 54, 59, 61, 80, 83, 88, 89, 118, 119, 162, 175, 176, 216, 261, 263, 283, 301, 329, and 383.

(Signed) Abbie Cornett

**UNANIMOUS CONSENT - Add Cointroducers**

Senators Erdman, Flood, and Friend asked unanimous consent to have their names added as cointroducers to LB 57. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Britini Korth from Randolph and Leah Anderson from Neligh.

**ADJOURNMENT**

At 12:02 p.m., on a motion by Senator Fischer, the Legislature adjourned until 9:00 a.m., Tuesday, March 15, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



# **FORTY-FOURTH DAY - MARCH 15, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **FORTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, March 15, 2005

#### **PRAYER**

The prayer was offered by Senator Kruse.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Loudon, D. Pederson, Raikes, and Thompson who were excused until they arrive.

#### **CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-third day was approved.

#### **SELECT COMMITTEE REPORTS**

##### **Enrollment and Review**

##### **Correctly Engrossed**

The following bills were correctly engrossed: LBs 10, 76, 94, 198, 211, 211A, 236, 238, 262, 284, 298, 335, and 355.

ER9009

Enrollment and Review Change to LB 76

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Beutler amendment, FA80, "of Motor Vehicles" has been inserted after "Department".

2. In the Baker amendment, AM0699, on page 12, line 20, "of" has been inserted after "issuance".

3. On page 1, lines 2 through 7 have been struck and "60-462.01, 60-465, 60-484, 60-490, 60-4,131, 60-4,132, 60-4,137, 60-4,141, 60-4,143, 60-4,144, 60-4,149.01, 60-4,159, and 60-4,168, Reissue Revised Statutes of

Nebraska, and section 29-3608, Revised Statutes Supplement, 2004; to change provisions relating to commercial driver's licenses; to adopt federal provisions for commercial motor vehicles; to change provisions relating to transporting hazardous materials; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency." inserted.

ER9008

#### Enrollment and Review Change to LB 335

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, the matter beginning with "the" in line 1 through line 5 has been struck and "water; to amend sections 31-1015, 33-105, 46-241, 46-677, 46-686, 46-688, 46-690, 54-2429, and 61-210, Reissue Revised Statutes of Nebraska, and section 2-3257, Revised Statutes Supplement, 2004; to adopt the Safety of Dams and Reservoirs Act; to provide and eliminate penalties; to eliminate provisions relating to dam inspections; to provide an exemption as prescribed under the Industrial Ground Water Regulatory Act; to harmonize provisions; to repeal the original sections; and to outright repeal sections 46-257, 46-277, and 46-278, Reissue Revised Statutes of Nebraska." inserted.

(Signed) Michael Flood, Chairperson

### STANDING COMMITTEE REPORTS

#### Judiciary

**LEGISLATIVE BILL 4.** Placed on General File.  
**LEGISLATIVE BILL 57.** Placed on General File.  
**LEGISLATIVE BILL 100.** Placed on General File.  
**LEGISLATIVE BILL 148.** Placed on General File.  
**LEGISLATIVE BILL 409.** Placed on General File.  
**LEGISLATIVE BILL 455.** Placed on General File.

**LEGISLATIVE BILL 758.** Placed on General File as amended.  
 Standing Committee amendment to LB 758:  
 AM0320

1 1. Strike the original sections and insert the following  
 2 new sections:  
 3 "Section 1. Section 64-108, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:  
 5 64-108. Every notary public, when notice by a party to  
 6 any civil suit pending in any court of this state upon any adverse  
 7 party for the taking of any testimony of witnesses by deposition,  
 8 or any commission to take testimony of witnesses to be preserved  
 9 for use in any suit thereafter to be commenced, has been deposited  
 10 with him or her, or when a special commission issued out of any

11 court of any state or country without this state, together with  
 12 notice for the taking of testimony by depositions or commissions,  
 13 has been deposited with him or her, is empowered to issue summons  
 14 and command the presence before him or her of witnesses, ~~and to~~  
 15 ~~punish witnesses for neglect or refusal to obey such summons, or~~  
 16 ~~for refusal to testify when present, by commitment to the jail of~~  
 17 ~~the county for contempt.~~ All sheriffs and constables in this state  
 18 are required to serve and return all process issued by notaries  
 19 public in the taking of testimony of witnesses by commission or  
 20 deposition.

21 Sec. 2. Original section 64-108, Reissue Revised  
 22 Statutes of Nebraska, is repealed."

(Signed) Patrick J. Bourne, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 206.** Title read. Considered.

The Standing Committee amendment, AM0633, found on page 727, was considered.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA84

Amend AM0633

Page 1, strike lines 21-24 and on page 2 strike lines 1-5 and insert "Strike 33."

The Chambers amendment was adopted with 26 ayes, 0 nays, 20 present and not voting, and 3 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

### RESOLUTIONS

**LEGISLATIVE RESOLUTION 55.** Introduced by Byars, 30.

WHEREAS, school bullying is a major problem in the United States and Nebraska; and

WHEREAS, almost thirty percent of the youth in the United States are estimated to be involved in bullying, either as a bully or as a victim; and

WHEREAS, an estimated one hundred sixty thousand students in kindergarten through twelfth grade miss school every day due to a fear of being bullied; and

WHEREAS, bullying can take many forms, including verbal and physical, and can happen in many places on and off school grounds; and

WHEREAS, the Nebraska Unicameral is addressing bullying in Nebraska through its consideration of a legislative bill requiring schools to adopt anti-bullying policies; and

WHEREAS, it is vitally important for Nebraska students, teachers, and school administrators to be aware of bullying, and to discuss the problem as a school community.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the week of September 12-16, 2005, be designated as Nebraska School Bullying Awareness Week, with the intention that the issue of bullying and its prevention be discussed in Nebraska schools during that time.

2. That the Clerk of the Legislature send a copy of this resolution to Trent Steele and his students who are high ability learners in the Beatrice Middle School.

Laid over.

**LEGISLATIVE RESOLUTION 56.** Introduced by Byars, 30.

WHEREAS, on March 12, 2005, at the Bob Devaney Sports Center, the Beatrice High School Orangemen defeated Mount Michael thereby winning the 2005 Class B Nebraska State High School Boys' Basketball Championship; and

WHEREAS, the Orangemen finished their schedule 24-0 and were ranked number one all season long; and

WHEREAS, the 2004-05 boys' basketball season will always be remembered as the perfect season of play; and

WHEREAS, this achievement is the result of hard work, talent, and dedication by the team members, who were supported in their efforts by the parents, administrators, students, and teachers of Beatrice High School and the community.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the members of the 2004-05 Beatrice Orangemen basketball team.

2. That a copy of this resolution be presented to Orangemen Head Coach Jim Weeks.

Laid over.

**LEGISLATIVE RESOLUTION 57.** Introduced by Stuthman, 22.

WHEREAS, Lindsay Holy Family High School won the Class D-2 Boys' State Basketball championship with a 56-53 victory over Loomis; and

WHEREAS, Lindsay Holy Family compiled a 23-3 season record; and

WHEREAS, this game was the first championship rematch in any class

since 1989; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Lindsay Holy Family High School boys' basketball team be congratulated for their exemplary effort this season and in the Boys' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Head Coach Bob Schnitzler and Holy Family High School.

Laid over.

**LEGISLATIVE RESOLUTION 58.** Introduced by Heidemann, 1.

WHEREAS, the Syracuse Rockets won the Class C-1 Boys' State Basketball Championship; and

WHEREAS, the Rockets compiled a season record of twenty-four wins and two losses; and

WHEREAS, the Rockets' trip to the state championship game represented their fourth state title and the first since winning the Class B title in 1960; and

WHEREAS, we should continue to recognize the achievements of our young people in all positive areas of endeavor.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That Tim Reed, Pat Lechner, Brian Copley, Nate Kreifels, Scott Hrabik, Thomas Neemann, Kyle Kreifels, Casey Schrader, Tyler Neels, Chase Busekist, Austin Landwehr, and James Conradi be congratulated for their achievement in claiming the Class C-1 Boys' State Basketball Championship.

2. That coaches Mark Hrabik, Paul Mulcahy, and Trevor Hoegh be applauded for their efforts in teaching and providing guidance to the young men on the Rockets basketball team.

3. That a copy of this resolution be sent to Bradley Buller, Superintendent, Syracuse High School.

Laid over.

**STANDING COMMITTEE REPORTS**  
**Health and Human Services**

**LEGISLATIVE BILL 480.** Placed on General File as amended.

Standing Committee amendment to LB 480:

AM0802

1 1. Strike the original sections and insert the following  
2 new sections:

3 "Section 1. Section 71-5701, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 71-5701. Sections 71-5701 to 71-5713 shall be known and  
6 may be cited as the Nebraska Clean Indoor Air Act.

7 Sec. 2. Section 71-5702, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 71-5702. The purpose of ~~sections 71-5701 to 71-5713~~ the  
10 Nebraska Clean Indoor Air Act is to protect the public health,  
11 comfort, and environment by prohibiting smoking in public places  
12 and at public meetings except ~~in designated smoking areas as~~  
13 otherwise provided in the act. Nothing in the act shall be  
14 construed to restrict or prohibit a governing body of a county,  
15 city, or village from establishing and enforcing ordinances at  
16 least as stringent as, or more stringent than, the provisions of  
17 the act.

18 Sec. 3. Section 71-5703, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 71-5703. For purposes of ~~sections 71-5701 to 71-5713~~ the  
21 Nebraska Clean Indoor Air Act, ~~unless the context otherwise~~  
22 ~~requires~~, the definitions found in sections 71-5704 to 71-5706  
23 ~~shall be~~ are used.

24 Sec. 4. Section 71-5704, Reissue Revised Statutes of  
1 Nebraska, is amended to read:

2 71-5704. Public place ~~shall mean~~ means any enclosed,  
3 indoor area of an establishment used by the general public or  
4 serving as a place of work which is usually frequented by the  
5 general public, including, but not limited to, restaurants, retail  
6 stores, offices and other commercial establishments, public  
7 conveyances, educational facilities, hospitals, nursing homes,  
8 auditoriums, arenas, and meeting rooms, but excluding private,  
9 enclosed offices occupied exclusively by smokers even though such  
10 offices may be visited by nonsmokers.

11 Sec. 5. Section 71-5705, Revised Statutes Supplement,  
12 2004, is amended to read:

13 71-5705. Public meeting ~~shall mean~~ means all meetings as  
14 defined in the Open Meetings Act.

15 Sec. 6. Section 71-5706, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-5706. Smoking ~~shall mean~~ means carrying a lighted  
18 cigar, cigarette, pipe, or any other lighted smoking equipment.

19 Sec. 7. Section 71-5707, Revised Statutes Supplement,  
20 2004, is amended to read:

21 71-5707. (1) No person shall smoke in a public place or  
22 at a public meeting except in designated smoking areas. ~~This~~  
23 ~~subsection does not apply in cases in which an entire room or hall~~  
24 ~~is used for a private social function and seating arrangements are~~  
25 ~~under the control of the sponsor of the function and not of the~~  
26 ~~proprietor or person in charge of such room or hall.~~

27 (2) Smoking areas shall not be designated in an enclosed  
1 indoor area of a restaurant.

2 (3) With respect to factories, warehouses, and similar

3 places of work not usually frequented by the general public, the  
4 Department of Health and Human Services Regulation and Licensure  
5 shall, in consultation with the Department of Labor, establish  
6 rules to restrict or prohibit smoking in those places of work where  
7 the close proximity of workers or the inadequacy of ventilation  
8 causes smoke pollution detrimental to the health and comfort of  
9 nonsmoking employees.

10 ~~(3)~~ (4) No person shall smoke at a site where child care  
11 programs required to be licensed under section 71-1911 are  
12 provided. This subsection applies to a child care ~~program~~ programs  
13 located in the home of the provider only during times when one or  
14 more client's children are present in any part of the home.

15 ~~(4)~~ (5)(a) Smoking is prohibited in all vehicles owned or  
16 leased by the state and in all buildings, and the area within ten  
17 feet of any entrance of such buildings, which are owned, leased, or  
18 occupied by the state except as provided in ~~subsections (5), (6),~~  
19 ~~and (7)~~ subsection (b) of this section.

20 ~~(5)~~ (b) The following buildings or areas within buildings  
21 in which persons reside or lodge may be exempt from this section:  
22 ~~(a)~~ (i) Nebraska veterans homes established pursuant to section  
23 80-315; ~~(b)~~ (ii) private residences; ~~(c)~~ (iii) facilities and  
24 institutions under the control of the Department of Health and  
25 Human Services; and ~~(d)~~ (iv) overnight lodging facilities and  
26 buildings managed by the Game and Parks Commission, ~~but no~~ except  
27 that smoking shall not be permitted in more than twenty-five  
1 percent of the overnight lodging facilities at each park location.  
2 shall permit smoking.

3 ~~(6)~~ Designated smoking areas not to exceed fifty percent  
4 of the space used by the public may be established in state-owned  
5 buildings at the Nebraska State Fairgrounds that possess a Class C,  
6 I, or M license for the sale of alcoholic liquor for consumption on  
7 the premises under the Nebraska Liquor Control Act.

8 ~~(7)~~ Smoking may be permitted in no more than forty  
9 percent of the residential housing rooms or units owned or leased  
10 on each campus under the control of the Board of Regents of the  
11 University of Nebraska or the Board of Trustees of the Nebraska  
12 State Colleges.

13 Sec. 8. Section 71-5708, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 71-5708. (1) Smoking areas may be designated by  
16 ~~proprietors or other persons in charge of~~ in public places, except  
17 in such places in which smoking is prohibited by the State Fire  
18 Marshal, by section 71-5707, or by other law, ordinance, or  
19 regulation.

20 (2) Where smoking areas are designated, existing physical  
21 barriers and ventilation systems shall be used to minimize the  
22 toxic effect of smoke in adjacent nonsmoking areas. If a public  
23 place consists of a single room, one side of the room shall be  
24 reserved and posted as a no smoking area. No public place other

25 than a bar or restaurant having a serving area of less than twelve  
26 hundred square feet shall be designated as a smoking area in its  
27 entirety. If a bar or restaurant having a serving area of less  
1 than twelve hundred square feet is designated as a smoking area in  
2 its entirety, such designation shall be posted conspicuously on all  
3 entrances normally used by the public.

4 (3) For purposes of this section, (a) bar means an  
5 establishment that serves alcoholic beverages, may provide limited  
6 food service, and prohibits the presence of minors, and (b) limited  
7 food service means the serving of only snack items or commercially  
8 prepared and wrapped foods that require little or no preparation.

9 Sec. 9. Section 71-5710, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 71-5710. The Department of Health and Human Services  
12 Regulation and Licensure shall, ~~not later than January 1, 1980,~~  
13 adopt and promulgate rules and regulations necessary and reasonable  
14 to implement the ~~provisions of sections 71-5701 to 71-5713~~ Nebraska  
15 Clean Indoor Air Act. The Department of Health and Human Services  
16 Regulation and Licensure shall consult with interested persons and  
17 professional organizations before promulgating such rules and  
18 regulations.

19 Sec. 10. Section 71-5711, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-5711. The Department of Health and Human Services  
22 Regulation and Licensure may, upon request, waive ~~the applicable~~  
23 provisions of sections 71-5701 to 71-5713 the Nebraska Clean Indoor  
24 Air Act if it determines that there are compelling reasons to do so  
25 and ~~a~~ that such waiver will not significantly affect the health and  
26 comfort of nonsmokers.

27 Sec. 11. Original sections 71-5701 to 71-5704, 71-5706,  
1 71-5708, 71-5710, and 71-5711, Reissue Revised Statutes of  
2 Nebraska, and sections 71-5705 and 71-5707, Revised Statutes  
3 Supplement, 2004, are repealed."

(Signed) Jim Jensen, Chairperson

### Education

**LEGISLATIVE BILL 460.** Placed on General File.

(Signed) Ron Raikes, Chairperson

### Banking, Commerce and Insurance

**LEGISLATIVE BILL 498.** Placed on General File as amended.

Standing Committee amendment to LB 498:

AM0812

1 1. Insert the following new section:

2 "Sec. 10. The Nebraska Venture Capital Forum Act

- 3 terminates on December 31, 2007."
- 4 2. On page 2, line 1, strike "9" and insert "10".
- 5 3. Renumber the remaining section accordingly.

**LEGISLATIVE BILL 655.** Indefinitely postponed.

(Signed) Mick Mines, Chairperson

### **Transportation and Telecommunications**

**LEGISLATIVE BILL 558.** Placed on General File.

**LEGISLATIVE BILL 587.** Placed on General File.

**LEGISLATIVE BILL 82.** Placed on General File as amended.

(Standing Committee amendment, AM0666, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 288.** Placed on General File as amended.

Standing Committee amendment to LB 288:

AM0769

- 1 1. Strike original section 10.
- 2 2. On page 4, strike beginning with "The" in line 25
- 3 through line 28.
- 4 3. On page 5, line 1, strike "public."; and strike
- 5 beginning with "or" in line 26 through "60-302" in line 27 and
- 6 insert "trailer, motorcycle, or commercial truck".
- 7 4. On page 13, line 22, strike "July 1, 2005" and insert
- 8 "January 1, 2006".

**LEGISLATIVE BILL 438.** Placed on General File as amended.

Standing Committee amendment to LB 438:

AM0768

- 1 1. On page 3, strike beginning with "or" in line 1
- 2 through "60-302" in line 2 and insert "trailer, motorcycle, or
- 3 commercial truck".

**LEGISLATIVE BILL 663.** Placed on General File as amended.

Standing Committee amendment to LB 663:

AM0800

- 1 1. Strike original section 4 and insert the following
- 2 new sections:
- 3 "Sec. 4. (1) For purposes of this section, a car club
- 4 means an organization that has members with expertise in authentic
- 5 vehicles and that has members with expertise in the restoration and
- 6 preservation of specific makes and models of vehicles using
- 7 replacement parts that are essentially the same in design and
- 8 material to that originally supplied by the manufacturer for a
- 9 specific year, make, and model of a vehicle.
- 10 (2) To become a recognized car club, a car club shall

11 apply to the Department of Motor Vehicles. A car club that desires  
12 to become recognized must be a nonprofit organization with  
13 established bylaws and at least twenty members. An applicant shall  
14 provide a copy of the bylaws and a membership list to the  
15 department. The department shall determine if a car club qualifies  
16 as a recognized car club.

17 (3) A member of a recognized car club may apply to the  
18 department to become a qualified car club representative to inspect  
19 vehicles and replacement parts for purposes of issuing certificates  
20 of title under section 3 of this act. Each qualified car club  
21 representative shall be designated by the president or director of  
22 the local chapter of the recognized car club of which he or she is  
23 a member. The department may identify and maintain a list of  
24 qualified car club representatives. A qualified car club  
1 representative may apply to be placed on the list of qualified car  
2 club representatives to inspect such vehicles and parts by  
3 providing the department with his or her name, address, and  
4 telephone number, the name, address, and telephone number of the  
5 recognized car club he or she represents, a copy of the designation  
6 of the representative by the president or director of the local  
7 chapter of the recognized car club, and such other information as  
8 required by the department. The department shall place a qualified  
9 a car club representative on the list upon receipt of a complete  
10 application and shall provide each representative with information  
11 for inspection of such vehicles and parts. The department shall  
12 distribute the list to county officials responsible for issuing  
13 certificates of title.

14 (4) A qualified car club representative shall inspect  
15 vehicles and replacement parts and determine whether all such parts  
16 used in the assembly of a vehicle are original or essentially the  
17 same in design and material to that originally supplied by the  
18 manufacturer for the specific year, make, and model of the vehicle,  
19 including the appropriate engine, body material, body shape, and  
20 other requirements as prescribed by the department. After such  
21 inspection, the representative shall provide the owner with a  
22 statement which includes the findings of the inspection in the form  
23 prescribed by the department. No qualified car club representative  
24 may charge any fee for the inspection or the statement. No  
25 qualified car club representative may provide a statement for any  
26 vehicle owned by such representative or any member of his or her  
27 immediate family.

1 (5) The Director of Motor Vehicles may summarily remove a  
2 representative from the list of qualified car club representatives  
3 upon written notice and for good cause shown. A representative may  
4 reapply for inclusion on the list upon presentation of suitable  
5 evidence satisfying the director that the cause for removal from  
6 the list has been corrected, eliminated, no longer exists, or will  
7 not affect or interfere with the representative's judgment or  
8 qualifications for inspection of vehicles to determine whether or

- 9 not any replacement parts are essentially the same in design and  
 10 material to that originally supplied by the original manufacturer  
 11 for the specific year, make, and model of a vehicle.  
 12 (6) The department may adopt and promulgate rules and  
 13 regulations to carry out this section.  
 14 Sec. 26. Section 60-311.18, Reissue Revised Statutes of  
 15 Nebraska, is amended to read:  
 16 ~~60-311.18.~~ Subject to land-use regulations of a county  
 17 or municipality, a collector may store any vehicles, licensed or  
 18 unlicensed, operable or inoperable, on his or her property if such  
 19 vehicles and parts cars and any outdoor storage areas are  
 20 maintained in such a manner that they do not constitute a health  
 21 hazard; and if the vehicles are located away from ordinary public  
 22 view or are screened from ordinary public view by means of a fence,  
 23 rapidly growing trees, shrubbery, opaque covering, or other  
 24 appropriate means."  
 25 2. On page 10, line 1, strike "The", show as stricken,  
 26 and insert "(a) Except as otherwise provided in subdivision (b) of  
 27 this subsection, the"; after line 15 insert the following new  
 1 subdivision:  
 2 "(b) No vehicle identification number shall be required  
 3 for a vehicle which was manufactured prior to 1940 and which does  
 4 not have a vehicle identification number attached."; and in line 21  
 5 after the period insert "No vehicle identification number shall be  
 6 required for a vehicle which was manufactured prior to 1940 and  
 7 which does not have a vehicle identification number attached.".  
 8 3. On page 23, line 24; page 24, line 21; and page 28,  
 9 line 11, strike "27" and insert "28".  
 10 4. On page 28, line 18, strike "and 60-117" and insert  
 11 "60-117, and 60-311.18"; and in line 21, after "to" insert  
 12 "60-311.17 and 60-311.19 to".  
 13 5. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 136.** Indefinitely postponed.

The Transportation and Telecommunications Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Jess Hull - Nebraska Motor Vehicle Industry Licensing Board

VOTE: Aye: Senators Hudkins, Baker, Dw. Pedersen, Smith, Aguilar, Foley, Stuthman. Nay: None. Absent: Senator Brown.

The Transportation and Telecommunications Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Susan Heider - Nebraska Information Technology Commission

VOTE: Aye: Senators Baker, Smith, Foley, Stuthman, Aguilar, Dw. Pedersen, Hudkins. Nay: None. Absent: Senator Brown.

(Signed) Tom Baker, Chairperson

### AMENDMENTS - Print in Journal

Senator Louden filed the following amendment to LB 739:  
AM0813

(Amendments to Standing Committee amendments, AM0747)

- 1 1. On page 38, strike beginning with "primary" in line
- 2 21 through "(d)" in line 23 and show as stricken; and in line 25
- 3 strike "(e)", show as stricken, and insert "(d)".
- 4 2. On page 39, line 9, after "11" insert "and primary
- 5 insurance benefits payable under Title II of the Social Security
- 6 Act, as amended, or similar payments under any act of Congress".

Senator Kruse filed the following amendment to LB 107:  
AM0786

- 1 1. Insert the following new section:
- 2 "Section 1. Section 53-132, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 53-132. (1) If no hearing is required pursuant to
- 5 subdivision (1)(a) or (b) of section 53-133 and the commission has
- 6 no objections pursuant to subdivision (1)(c) of such section, the
- 7 commission may waive the forty-five-day objection period and, if
- 8 not otherwise prohibited by law, cause a retail license or craft
- 9 brewery license to be signed by its chairperson, attested by its
- 10 executive director over the seal of the commission, and issued in
- 11 the manner provided in subsection (4) of this section as a matter
- 12 of course.
- 13 (2) A retail license or craft brewery license ~~shall~~ may
- 14 be issued to any qualified applicant if the commission finds that
- 15 (a) the applicant is fit, willing, and able to properly provide the
- 16 service proposed within the city, village, or county where the
- 17 premises described in the application are located, (b) the
- 18 applicant can conform to all provisions and requirements of and
- 19 rules and regulations adopted pursuant to the Nebraska Liquor
- 20 Control Act, (c) the applicant has demonstrated that the type of
- 21 management and control to be exercised over the premises described
- 22 in the application will be sufficient to insure that the licensed
- 23 business can conform to all provisions and requirements of and
- 24 rules and regulations adopted pursuant to the act, and (d) the
- 1 issuance of the license is or will be required by the present or
- 2 future public convenience and necessity.
- 3 (3) In making its determination pursuant to subsection

- 4 (2) of this section the commission shall consider:  
5 (a) The recommendation of the local governing body;  
6 (b) The existence of a citizens' protest made in  
7 accordance with section 53-133;  
8 (c) The existing population of the city, village, or  
9 county and its projected growth;  
10 (d) The nature of the neighborhood or community of the  
11 location of the proposed licensed premises;  
12 (e) The existence or absence of other retail licenses or  
13 craft brewery licenses with similar privileges within the  
14 neighborhood or community of the location of the proposed licensed  
15 premises;  
16 (f) The existing motor vehicle and pedestrian traffic  
17 flow in the vicinity of the proposed licensed premises;  
18 (g) The adequacy of existing law enforcement;  
19 (h) Zoning restrictions;  
20 (i) The sanitation or sanitary conditions on or about the  
21 proposed licensed premises; and  
22 (j) Whether the type of business or activity proposed to  
23 be operated in conjunction with the proposed license is and will be  
24 consistent with the public interest.  
25 (4) Retail licenses or craft brewery licenses issued or  
26 renewed by the commission shall be mailed or delivered to the clerk  
27 of the city, village, or county who shall deliver the same to the  
28 licensee upon receipt from the licensee of proof of payment of (a)  
29 the license fee if by the terms of subdivision (5) of section  
30 53-124 the fee is payable to the treasurer of such city, village,  
31 or county, (b) any fee for publication of notice of hearing before  
32 the local governing body upon the application for the license, (c)  
33 the fee for publication of notice of renewal as provided in section  
34 53-135.01, and (d) occupation taxes, if any, imposed by such city,  
35 village, or county. Notwithstanding any ordinance or charter power  
36 to the contrary, no city, village, or county shall impose an  
37 occupation tax on the business of any person, firm, or corporation  
38 licensed under the act and doing business within the corporate  
39 limits of such city or village or within the boundaries of such  
40 county in any sum which exceeds two times the amount of the license  
41 fee required to be paid under the act to obtain such license.  
42 (5) Each license shall designate the name of the  
43 licensee, the place of business licensed, and the type of license  
44 issued."  
45 2. On page 5, line 16, strike "53-1,104" and insert  
46 "53-132, 53-1,104,".  
47 3. Renumber the remaining sections accordingly.

Senator Howard filed the following amendment to LB 177:  
AM0014

- 1 1. Insert the following new section:
- 2 "Sec. 3. A person who is required to obtain a substance

3 dependence evaluation may have the evaluation conducted by a  
4 licensed alcohol and drug abuse counselor in such person's county  
5 of residence."

6 2. Renumber the remaining section accordingly.

### ANNOUNCEMENT

Speaker Brashear designates LBs 4, 47, 101, 193, 218, 227, 237, 256, 274, 276, 389, 407, 465, 484, 505, 545, 557, 566, 664, 682, 683, 693, 703, 761, and LR 2CA as Speaker priority bills and resolution.

### GENERAL FILE

**LEGISLATIVE BILL 268.** Title read. Considered.

**SENATOR JANSSEN PRESIDING**

**SENATOR CUDABACK PRESIDING**

Advanced to E & R for review with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 439.** Title read. Considered.

The Standing Committee amendment, AM0628, found on page 755, was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

### SELECT COMMITTEE REPORTS

#### Enrollment and Review

#### Correctly Engrossed

The following bills were correctly engrossed: LBs 66, 66A, 71, 71A, 139, 264, and 441.

ER9011

Enrollment and Review Change to LB 71

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Mines amendment, AM0627, on page 11, lines 8, 16, and 24; and page 12, line 7, the new matter has been struck and the stricken matter reinstated.

2. On page 1, the matter beginning with "economic" in line 1 through line

6 has been struck and "agriculture; to amend sections 58-202 and 58-242, Reissue Revised Statutes of Nebraska; to reenact the Agricultural Opportunities and Value-Added Partnerships Act; to provide a termination date; to modify provisions involving agricultural projects under the Nebraska Investment Finance Authority Act; to eliminate an obsolete provision; to repeal the original sections; to outright repeal sections 2-5401 to 2-5412 and 90-527, Revised Statutes Supplement, 2004; and to declare an emergency." inserted.

ER9014

Enrollment and Review Change to LB 139

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 30, line 17, "the production, storage, and distribution of hydrogen," has been inserted after "energy".
2. On page 34, line 11, "hydrogen," has been inserted after "energy".

ER9010

Enrollment and Review Change to LB 441

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, line 1, "section" has been struck and "sections 54-199 and" inserted; in line 2 "to change provisions relating to livestock brands;" has been inserted after the semicolon; and in line 4 "section" has been struck and "sections" inserted.

(Signed) Michael Flood, Chairperson

**STANDING COMMITTEE REPORTS**  
**Judiciary**

**LEGISLATIVE BILL 117.** Placed on General File as amended.

(Standing Committee amendment, AM0712, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 361.** Placed on General File as amended.

(Standing Committee amendment, AM0523, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Patrick J. Bourne, Chairperson

**AMENDMENTS - Print in Journal**

Senator Jensen filed the following amendment to LB 382:  
AM0808

(Amendments to Standing Committee amendments, AM0702)

- 1 1. Insert the following new section:
- 2 "Sec. 14. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."
- 4 2. On page 43, line 17, strike "L".

Senator Chambers filed the following amendments to LB 563:

FA85

Add a new section: "The Legislature finds: To mellow one's mood, consume not food. Though candy is dandy, malt liquor is quicker."

FA86

On page 2, line 22 strike the semicolon and add "which targets young people, including those not old enough to consume alcoholic beverages legally outside of the home;"

FA87

On page 2, line 17 strike and show as stricken the semicolon and place a period. Insert "Wine does not mean an alcoholic beverage obtained by miraculous or supernatural intervention which transmutes some other liquid into alcohol without the benefit of the fermentation of the natural contents of fruits or vegetables;"

FA88

On page 5, line 16 after "a" insert "heavy stick, usually thicker at one end than at the other and suitable for use as a weapon, or".

FA89

On page 2, line 13 after "substances;" insert "supernatural, incorporeal beings, especially those inhabiting a place or object, or having a particular character; for example, evil spirits;"

FA90

On page 8, line 24 after "means" insert "miniature brewery operated by a virus or a bacterium, or any".

FA91

On page 2, line 9 after "means" insert "disembodied life forces, ghosts, sprites, angels, demons, divine influences, goblins, hobgoblins, evanescent forms haunting or wandering among living humans, or"

FA92

On page 2, line 20 after first appearance of "and" insert "hip".

FA93

On page 8, line 10 after second appearance of "of" insert "Toys"; after first appearance of "R" insert "Us"; after "abandoned" insert "Toys"; after "R" insert "Us".

FA94

On page 8, line 10 after "from" insert "the"; in line 11 strike and show as stricken "streets" and insert "centuries"

FA95

On page 8, line 18 after "means" insert "a license authorizing operation or use of ships in or upon the navigable waters within the state, or".

FA96

On page 6, line 21 after second appearance of "corporation" insert "operated incompetently or inefficiently so as to operate at a loss, or".

FA97

On page 5, line 12 after "accommodations" insert "but where aurants may rest".

FA98

On page 4, line 23 after "who" insert "replaces a tail, or"

FA99

On page 5 after "means" insert "a special disposal of goods, as at a reduced price, or".

FA100

On page 2, line 26 strike and show as stricken "a human being" and insert "any living creature".

FA101

On page 3, add a new subsection: "(6) Beverage means any liquid containing alcohol and intended for human consumption;"

FA102

On page 3, line 8 strike and show as stricken "wine" and insert "alcoholic liquor"; in line 9 strike and show as stricken "church or"; strike and show as stricken "sacramental" and insert "religious or worship".

FA103

On page 3, line 9 strike and show as stricken "church or"; strike and show as stricken "sacramental" and insert "religious or worship".

FA104

On page 3, line 9 strike and show as stricken "sacramental" and insert "religious or worship"

## VISITORS

Visitors to the Chamber were 36 fourth-grade students and teachers from Oakdale Elementary School, Omaha.

The Doctor of the Day was Dr. Marlon Weiss from Lincoln.

**ADJOURNMENT**

At 11:59 a.m., on a motion by Senator Cunningham, the Legislature adjourned until 9:00 a.m., Wednesday, March 16, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**FORTY-FIFTH DAY - MARCH 16, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FORTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, March 16, 2005

**PRAYER**

The prayer was offered by Pastor Tom Peyton, Ord Evangelical Free Church, Ord.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Bourne, Brashear, Brown, Hudkins, Dw. Pedersen, and Schimek who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-fourth day was approved.

**SELECT COMMITTEE REPORTS  
Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 9, 55, 78, 97, 105, 115, 122, 201, 205, 241, 247, 259, 291, 306, 306A, 319, 320, 331, 342, 380, 396, 402, 406, 450, 451, 453, 471, 475, 476, 501, 525, 528, 534, 544, 626, 639, 640, 676, 754, and 762.

ER9016

Enrollment and Review Change to LB 97

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, line 3, "mortgages or" has been struck and "deeds of trust, mortgages, and" inserted.

ER9015

## Enrollment and Review Change to LB 122

The following changes, required to be reported for publication in the Journal, have been made:

1. In section 1 subdivisions have been redesignated to reflect the adoption of the Standing Committee amendment, AM0204.

ER9012

## Enrollment and Review Change to LB 247

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, lines 2 and 4, "section" has been struck and "sections" inserted; in line 2 "and 75-134" has been inserted after "75-133"; and in line 4 "to harmonize provisions;" has been inserted after the semicolon.

ER9013

## Enrollment and Review Change to LB 306

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Byars amendment, FA82, "section 71-1,103(17)" has been struck and "subdivision (17) of section 71-1,103" inserted.

(Signed) Michael Flood, Chairperson

**MESSAGE FROM THE GOVERNOR**

March 10, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed to the Nebraska State Fair Board.

**APPOINTEE:**

Stephen J. McCollister, 11815 Oakair Plaza, Omaha NE 68137

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/  
Enclosure

**SELECT FILE**

**LEGISLATIVE BILL 570.** E & R amendment, AM7027, found on page 633, was adopted.

Advanced to E & R for engrossment.

**ANNOUNCEMENT**

The Chair announced today is Senator Brashear's birthday.

**GENERAL FILE**

**LEGISLATIVE BILL 588.** Title read. Considered.

The Special Committee amendment, AM0472, found on page 578, was considered.

**SPEAKER BRASHEAR PRESIDING**

**SENATOR CUDABACK PRESIDING**

The Special Committee amendment was adopted with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 35 ayes, 2 nays, 9 present and not voting, and 3 excused and not voting.

**SELECT COMMITTEE REPORT**  
**Enrollment and Review**

**Correctly Engrossed**

The following bills were correctly engrossed: LBs 546 and 546A.

(Signed) Michael Flood, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 59.** Introduced by Byars, 30.

WHEREAS, the Nebraska Optometric Association was organized in 1905 to represent the interests of the state's optometrists; and

WHEREAS, the association represents more than eighty percent of the licensed optometrists in the state; and

WHEREAS, the association's members provide a wide range of vision-related services to patients throughout the state; and

WHEREAS, the association, as part of its mission, continues to assist Nebraska citizens by advancing public awareness and public education about the importance of vision and vision care.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the Nebraska Optometric Association on the one hundredth anniversary of its founding.

2. That a copy of this resolution be sent to the Nebraska Optometric Association and shared with its members.

Laid over.

### REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

McCollister, Stephen J. - Nebraska State Fair Board - Agriculture

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

### STANDING COMMITTEE REPORT

#### Banking, Commerce and Insurance

**LEGISLATIVE BILL 589.** Placed on General File as amended.

Standing Committee amendment to LB 589:

AM0743

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. The Legislature finds that (1) the
- 4 Department of Health and Human Services and the Department of
- 5 Health and Human Services Finance and Support rely on health
- 6 insurance and claims information from private insurers to ensure
- 7 accuracy in processing state benefit program payments to providers
- 8 and in verifying individual recipients' eligibility, (2) delay or
- 9 refusal to provide such information causes unnecessary expenditures
- 10 of state funds, (3) disclosure of such information to the
- 11 Department of Health and Human Services and the Department of
- 12 Health and Human Services Finance and Support is permitted pursuant
- 13 to the federal Health Insurance Portability and Accountability
- 14 privacy rules under 45 C.F.R. part 164, and (4) for medical
- 15 assistance program recipients who also have other insurance

16 coverage, including coverage by licensed and self-funded insurers,  
17 the Department of Health and Human Services Finance and Support is  
18 required by 42 U.S.C. 1396a(a)(25) to assure that licensed and  
19 self-funded insurers coordinate benefits with the program.

20 Sec. 2. For purposes of sections 1 to 8 of this act:

21 (1) Coordinate benefits means:

22 (a) Provide to the Department of Health and Human  
23 Services or the Department of Health and Human Services Finance and  
24 Support information regarding the licensed insurer's or self-funded  
1 insurer's existing coverage for an individual who is eligible for a  
2 state benefit program; and

3 (b) Meet payment obligations;

4 (2) Coverage information means health information  
5 possessed by a licensed insurer or self-funded insurer that is  
6 limited to the following information about an individual:

7 (a) Eligibility for coverage under a health plan;

8 (b) Coverage of health care under the health plan; or

9 (c) Benefits and payments associated with the health  
10 plan;

11 (3) Health plan means any policy of insurance issued by a  
12 licensed insurer or any employee benefit plan offered by a  
13 self-funded insurer that provides for payment to or on behalf of an  
14 individual as a result of an illness, disability, or injury or  
15 change in a health condition;

16 (4) Individual means a person covered by a state benefit  
17 program, including the medical assistance program established under  
18 sections 68-1018 to 68-1025, or a person applying for such  
19 coverage;

20 (5) Licensed insurer means any insurer, except a  
21 self-funded insurer, including a fraternal benefit society,  
22 producer, or other person licensed or required to be licensed,  
23 authorized or required to be authorized, or registered or required  
24 to be registered pursuant to the insurance laws of the state; and

25 (6) Self-funded insurer means any employer or union who  
26 provides a self-funded employee benefit plan.

27 Sec. 3. At the request of the Department of Health and  
1 Human Services or the Department of Health and Human Services  
2 Finance and Support, a licensed insurer or a self-funded insurer  
3 shall provide coverage information to the requesting department  
4 without an individual's authorization for purposes of:

5 (1) Determining an individual's eligibility for state  
6 benefit programs, including the medical assistance program  
7 established under sections 68-1018 to 68-1025; or

8 (2) Coordinating benefits with state benefit programs.

9 Such information shall be provided within thirty days  
10 after the date of request unless good cause is shown.

11 Sec. 4. Any violation of section 3 of this act by a  
12 licensed insurer shall be subject to the Unfair Insurance Claims  
13 Settlement Practices Act.

14 Sec. 5. The Department of Health and Human Services  
15 Finance and Support may impose and collect a civil penalty on a  
16 self-funded insurer who violates the requirements of section 3 of  
17 this act if the department finds that the self-funded insurer:

18 (1) Committed the violation flagrantly and in conscious  
19 disregard of the requirements; or

20 (2) Has committed violations with such frequency as to  
21 indicate a general business practice to engage in that type of  
22 conduct.

23 The civil penalty shall not be more than one thousand  
24 dollars for each violation, not to exceed an aggregate penalty of  
25 thirty thousand dollars, unless the violation by the self-funded  
26 insurer was committed flagrantly and in conscious disregard of  
27 section 3 of this act, in which case the penalty shall not be more  
1 than fifteen thousand dollars for each violation, not to exceed an  
2 aggregate penalty of one hundred fifty thousand dollars.

3 Sec. 6. The Department of Health and Human Services  
4 Finance and Support is authorized to recover all amounts paid or to  
5 be paid to state benefit programs as a result of failure to  
6 coordinate benefits by a licensed insurer or a self-funded insurer.  
7 If at the time the department pursues recovery, the licensed  
8 insurer or self-funded insurer has already made any payment, the  
9 department may pursue recovery of that payment only from the party  
10 who received it. Any amount recovered shall be returned to the  
11 fund of the program from which the expenditure was made.

12 Sec. 7. The Department of Health and Human Services  
13 Finance and Support shall establish a process by rule and  
14 regulation for resolving any violation by a self-funded insurer of  
15 section 3 of this act and for assessing the financial penalties  
16 contained in section 5 of this act. Any appeal of an action by the  
17 department under such policies shall be in accordance with the  
18 Administrative Procedure Act.

19 Sec. 8. All money collected as a civil penalty under  
20 section 4 or 5 of this act shall be remitted to the State Treasurer  
21 for distribution in accordance with Article VII, section 5, of the  
22 Constitution of Nebraska.

23 Sec. 9. Section 44-1540, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 44-1540. Any of the following acts or practices by an  
26 insurer, if committed in violation of section 44-1539, shall be an  
27 unfair claims settlement practice:

1 (1) Knowingly misrepresenting to claimants and insureds  
2 relevant facts or policy provisions relating to coverages at issue;

3 (2) Failing to acknowledge with reasonable promptness  
4 pertinent communications with respect to claims arising under its  
5 policies;

6 (3) Failing to adopt and implement reasonable standards  
7 for the prompt investigation and settlement of claims arising under  
8 its policies;

- 9 (4) Not attempting in good faith to effectuate prompt,  
10 fair, and equitable settlement of claims submitted in which  
11 liability has become reasonably clear;
- 12 (5) Not attempting in good faith to effectuate prompt,  
13 fair, and equitable settlement of property and casualty claims (a)  
14 in which coverage and the amount of the loss are reasonably clear  
15 and (b) for loss of tangible personal property within real property  
16 which is insured by a policy subject to section 44-501.02 and which  
17 is wholly destroyed by fire, tornado, windstorm, lightning, or  
18 explosion;
- 19 (6) Compelling insureds or beneficiaries to institute  
20 litigation to recover amounts due under its policies by offering  
21 substantially less than the amounts ultimately recovered in  
22 litigation brought by them;
- 23 (7) Refusing to pay claims without conducting a  
24 reasonable investigation;
- 25 (8) Failing to affirm or deny coverage of a claim within  
26 a reasonable time after having completed its investigation related  
27 to such claim;
- 1 (9) Attempting to settle a claim for less than the amount  
2 to which a reasonable person would believe the insured or  
3 beneficiary was entitled by reference to written or printed  
4 advertising material accompanying or made part of an application;
- 5 (10) Attempting to settle claims on the basis of an  
6 application which was materially altered without notice to or  
7 knowledge or consent of the insured;
- 8 (11) Making a claims payment to an insured or beneficiary  
9 without indicating the coverage under which each payment is being  
10 made;
- 11 (12) Unreasonably delaying the investigation or payment  
12 of claims by requiring both a formal proof-of-loss form and  
13 subsequent verification that would result in duplication of  
14 information and verification appearing in the formal proof-of-loss  
15 form;
- 16 (13) Failing, in the case of the denial of a claim or the  
17 offer of a compromise settlement, to promptly provide a reasonable  
18 and accurate explanation of the basis for such action;
- 19 (14) Failing to provide forms necessary to present claims  
20 with reasonable explanations regarding their use within fifteen  
21 working days of a request;
- 22 (15) Failing to adopt and implement reasonable standards  
23 to assure that the repairs of a repairer owned by or affiliated  
24 with the insurer are performed in a skillful manner. For purposes  
25 of this subdivision, a repairer is affiliated with the insurer if  
26 there is a preexisting arrangement, understanding, agreement, or  
27 contract between the insurer and repairer for services in  
1 connection with claims on policies issued by the insurer; ~~and~~
- 2 (16) Requiring the insured or claimant to use a  
3 particular company or location for motor vehicle repair. Nothing

4 in this subdivision shall prohibit an insurer from entering into  
5 discount agreements with companies and locations for motor vehicle  
6 repair or otherwise entering into any business arrangements or  
7 affiliations which reduce the cost of motor vehicle repair if the  
8 insured or claimant has the right to use a particular company or  
9 reasonably available location for motor vehicle repair. If the  
10 insured or claimant chooses to use a particular company or location  
11 other than the one providing the lowest estimate for like kind and  
12 quality motor vehicle repair, the insurer shall not be liable for  
13 any cost exceeding the lowest estimate. For purposes of this  
14 subdivision, motor vehicle repair shall include motor vehicle glass  
15 replacement and motor vehicle glass repair; and  
16 (17) Failing to provide coverage information or  
17 coordinate benefits pursuant to section 3 of this act.  
18 Sec. 10. If any section in this act or any part of any  
19 section is declared invalid or unconstitutional, the declaration  
20 shall not affect the validity or constitutionality of the remaining  
21 portions.  
22 Sec. 11. Original section 44-1540, Reissue Revised  
23 Statutes of Nebraska, is repealed.".

(Signed) Mick Mines, Chairperson

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 111A.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 111, Ninety-ninth Legislature, First Session, 2005.

### **AMENDMENT - Print in Journal**

Senator Langemeier filed the following amendment to LB 675:  
AM0831

- 1 1. On page 10, strike beginning with "within" in line 1
- 2 through "districts" in line 2 and all amendments thereto and insert
- 3 "at the school he or she attends".

### **GENERAL FILE**

**LEGISLATIVE BILL 382.** Title read. Considered.

The Standing Committee amendment, AM0702, printed separately and referred to on page 747, was considered.

Senator Jensen renewed his pending amendment, AM0808, found on page

871, to the Standing Committee amendment.

The Jensen amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 739.** Title read. Considered.

The Standing Committee amendment, AM0747, printed separately and referred to on page 822, was considered.

Pending.

### **AMENDMENTS - Print in Journal**

Senator Schrock filed the following amendment to LB 335:  
AM0824

(Amendments to Final Reading copy)

- 1 1. On page 7, line 28, strike "subsection (2)" and
- 2 insert "subsections (2) and (4)".
- 3 2. On page 8, after line 25, insert the following new
- 4 subsection:
- 5 "(4) The Safety of Dams and Reservoirs Act does not
- 6 preempt or supersede any local zoning ordinances, resolutions,
- 7 rules, or regulations regarding special use permits enacted by a
- 8 political subdivision with respect to permit applications for
- 9 livestock waste control facilities.".

Senator Stuhr filed the following amendment to LB 111:  
FA105

On page 4, strike lines 15 and 16.

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Heidemann asked unanimous consent to have his name added as cointroducer to LB 114. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Senator Schrock's aunt, Helen Hendricks from David City, and cousins, Teresa Murray from Ord, Nancy Morse from Loomis, and Mona Peterson from Funk; 60 fourth-grade students and teachers from Hayward Elementary School, Nebraska City; Danielle Wiese from Dodge; Peg Pribnow from Ames; fourth-grade students from Avery

Elementary School, Bellevue; Lions Club sponsoring students from Washington County; and Mark Overman from Scottsbluff.

The Doctor of the Day was Dr. Rob Rhodes from Lincoln.

### **ADJOURNMENT**

At 11:58 a.m., on a motion by Senator Byars, the Legislature adjourned until 9:00 a.m., Thursday, March 17, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**FORTY-SIXTH DAY - MARCH 17, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FORTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, March 17, 2005

**PRAYER**

The prayer was offered by Pastor Judith Rainforth, First Lutheran Church, Omaha.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Beutler, Brown, Loudon, and Stuthman who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-fifth day was approved.

**SELECT COMMITTEE REPORTS  
Enrollment and Review**

**LEGISLATIVE BILL 206.** Placed on Select File as amended.  
(E & R amendment, AM7059, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 268.** Placed on Select File as amended.  
E & R amendment to LB 268:  
AM7058

- 1 1. On page 5, strike line 13 and insert "subtitle A,
- 2 chapter 1, subchapter J, part I, subpart E of the".

**LEGISLATIVE BILL 439.** Placed on Select File as amended.  
E & R amendment to LB 439:  
AM7060

- 1 1. In the Standing Committee amendment, AM0628:
- 2 a. On page 1, line 17, after "(5)" insert "(a)"; and in
- 3 line 23 strike "(a)", show as stricken, and insert "(i)";
- 4 b. On page 2, line 1, strike "(b)", show as stricken,

5 and insert "(ii)"; in line 2 strike "(c)", show as stricken, and  
6 insert "(iii)"; and in line 4 after the period insert paragraphing  
7 and "(b)"; and  
8 c. On page 6, line 5, strike "dealer" and insert  
9 "dealer's".  
10 2. On page 1, strike beginning with "88-535" in line 2  
11 through line 6 and insert "and 88-543, Reissue Revised Statutes of  
12 Nebraska, and sections 88-526 and 88-528, Revised Statutes  
13 Supplement, 2004; to change provisions relating to grain dealers  
14 and grain warehouses; to provide requirements relating to direct  
15 delivery grain; to harmonize provisions; to repeal the original  
16 sections; and to declare an emergency."

(Signed) Michael Flood, Chairperson

### STANDING COMMITTEE REPORT

#### Revenue

**LEGISLATIVE BILL 500.** Placed on General File as amended.  
Standing Committee amendment to LB 500:  
AM0773

- 1 1. Strike original section 26 and insert the following  
2 new section:  
3 "Sec. 30. Section 25-2501, Revised Statutes Supplement,  
4 2004, is amended to read:  
5 25-2501. It is the intent and purpose of sections  
6 25-2501 to 25-2506 to establish a uniform procedure to be used in  
7 acquiring private property for a public purpose by the State of  
8 Nebraska and its political subdivisions and by all privately owned  
9 public utility corporations and common carriers which have been  
10 granted the power of eminent domain. Such sections shall not apply  
11 to:  
12 (1) Water transmission and distribution pipelines and  
13 their appurtenances and common carrier pipelines and their  
14 appurtenances;  
15 (2) Public utilities and cities of all classes and  
16 villages when acquiring property for a proposed project involving  
17 the acquisition of rights or interests in ten or fewer separately  
18 owned tracts or when the acquisition is within the corporate limits  
19 of any city or village;  
20 (3) Sanitary and improvement districts organized under  
21 sections 31-727 to 31-762 when acquiring easements for a proposed  
22 project involving the acquisition of rights or interests in ten or  
23 fewer separately owned tracts;  
24 (4) Counties and municipalities which acquire property  
1 through the process of platting or subdivision or for street or  
2 highway construction or improvements;  
3 (5) Common carriers subject to regulation by the Federal  
4 Railroad Administration of the United States Department of

- 5 Transportation; ~~or~~
- 6 (6) The Department of Roads when acquiring property for
- 7 highway construction or improvements; or
- 8 (7) Contracting public bodies when making acquisitions
- 9 pursuant to an approved development project plan under the
- 10 Entertainment and Tourism Development Act."
- 11 2. On page 2, line 1, strike "30" and insert "29".
- 12 3. On page 3, line 8, after "cities" insert ",
- 13 counties,".
- 14 4. On page 4, line 1; page 6, line 9; page 8, line 24;
- 15 page 9, lines 5, 13, and 21; page 10, line 13; page 11, line 25;
- 16 page 12, lines 3 and 23; page 13, lines 10, 13, and 26; page 14,
- 17 lines 9, 12, 15, 17, and 22; page 15, lines 1, 2, 4, 17, and 27;
- 18 page 16, line 13; page 17, line 9; and page 29, lines 17, 20, 23,
- 19 and 27, after each occurrence of "city" insert ", county,".
- 20 5. On page 4, line 14, after "equipment" insert ",
- 21 furniture, fixtures,".
- 22 6. On page 5, line 3, strike "and (q)" and insert "(q)
- 23 engineering, architecture, and other designated planning expenses
- 24 incurred in connection with development of the project; (r)
- 25 capitalized interest; (s) legal, accounting, consulting, and all
- 26 other related expenses to develop and finance the development
- 27 project; and (t)"; strike beginning with "either" in line 9 through
- 1 "in" in line 15; and in line 28 strike "such" and insert "the" and
- 2 strike "village" and insert "county".
- 3 7. On page 6, line 1, strike "an abundance" and insert
- 4 "a high proportion"; and in line 17 after the first comma insert
- 5 "county board,".
- 6 8. Strike beginning on page 7, line 27, through page 8,
- 7 line 6, and insert the following new subdivision:
- 8 "(22) Qualified business activities means any activities
- 9 conducted by a company engaged in tourism, entertainment, or other
- 10 activities that are expected to be a significant contributor to
- 11 substantial retail purchases by travelers who are not residents of
- 12 this state which include, but are not limited to: Selling tangible
- 13 personal property or services at retail; providing or sponsoring
- 14 educational, musical, recreational, historical, civic, cultural,
- 15 and athletic activities; providing lodging and related services;
- 16 and sponsoring conventions, meetings, trade shows, and educational
- 17 events. Qualified business activities does not include any
- 18 business which is primarily engaged in the sale of tangible
- 19 personal property if the same or a substantially similar business
- 20 is operated in the state within twenty-five miles of the
- 21 development project at the date of the project application or was
- 22 operated in the state in the two years prior to the date of
- 23 application within twenty-five miles of the development project;".
- 24 9. On page 8, line 25, after the first "an" insert
- 25 "eligible" and strike "in" through "city".
- 26 10. On page 9, line 4, after the period insert "Such an

- 27 area shall not be within the zoning jurisdiction of a city of the  
1 metropolitan, primary, first, or second class for an applying  
2 county.".
- 3 11. On page 10, line 22, after "city's" insert ";  
4 county's,".
- 5 12. On page 11, lines 8 and 9, strike "thirty-six months  
6 after the date of designation" and insert "two years after the  
7 effective date of this act".
- 8 13. On page 12, line 11, after "companies" insert "and  
9 any anticipated developments contemplated by the company and any  
10 related companies".
- 11 14. On page 13, line 1, strike "and"; and in line 8  
12 before the period insert "; and  
13 (j) A detailed plan outlining the financing of the  
14 proposed development project, including the amount to be obtained  
15 from any public entity, tax proceeds, or bond issue".
- 16 15. On page 19, line 10, strike "board" and insert  
17 "Department of Revenue".
- 18 16. On page 21, line 2, after "county" insert "in which  
19 is" and strike "in"; in line 3 after "district" insert "that is  
20 outside the boundaries of any municipality with a local option  
21 sales tax"; and in line 8 after the period insert "The total rate  
22 of county and municipal sales taxes imposed on transactions shall  
23 not exceed one and one-half percent".
- 24 17. On page 28, line 20, strike "and (c)" and insert  
25 "(c) the contracting public body shall not, in consequence of the  
26 annexation under this subdivision of any noncontiguous land, make  
27 further annexations contiguous to the noncontiguous annexed land  
1 until such time as there is a lawful annexation of sufficient  
2 intervening territory so as to directly connect the noncontiguous  
3 area to the main body of the contracting public body, (d) there  
4 shall be no annexation across county lines, and (e)".
- 5 18. On page 30, line 2, strike "lightening" and insert  
6 "lightning"; and strike lines 7 through 27 and insert the following  
7 new subsection:  
8 "(2) In addition to the requirements of subsection (1) of  
9 this section, the requirements of the Relocation Assistance Act  
10 apply for the fair and equitable treatment of persons displaced as  
11 a result of any development project".
- 12 19. On page 50, line 19, strike "section" and insert  
13 "sections 25-2501 and"; and in line 20 strike "is" and insert  
14 "are".
- 15 20. Renumber the remaining sections and correct internal  
16 references accordingly.

(Signed) David Landis, Chairperson

**MESSAGE FROM THE GOVERNOR**

March 15, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individuals were reappointed to the Nebraska Environmental Trust Board.

**APPOINTEES:**

Paul Dunn, 5322 Corby #12, Omaha NE 68104  
Susan Seacrest, 6540 Crooked Creek Drive, Lincoln NE 68516  
Gloria Erickson, 315 18th Avenue, Holdrege NE 68949

The aforementioned names are respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/  
Enclosure

**REPORTS**

The following reports were received by the Legislature:

**Revenue, Department of**

Employment and Investment Growth Act, Employment Expansion and Investment Incentive Act (including Enterprise Zone Act), Quality Jobs Act, Rural Economic Opportunities Act, and Invest Nebraska Act (LB 775, LB 1124, LB 608, LB 829, LB 936, and LB 620)

**Roads, Department of**

Board of Public Roads Classifications and Standards Minutes for January 2005

**University of Nebraska**

Collective Bargaining Negotiations Status Report

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of March 16, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Engl, Jennifer L.  
Cargill Inc.

Weak, Jeffrey John  
Metro Omaha Theme Park

### **MOTION - Approve Appointments**

Senator Baker moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 867:

Nebraska Information Technology Commission  
Susan Heider

Voting in the affirmative, 37:

Aguilar	Cunningham	Howard	Mines	Schrock
Baker	Engel	Janssen	Pahls	Smith
Bourne	Erdman	Johnson	Pedersen, Dw.	Stuhr
Brashear	Fischer	Kopplin	Pederson, D.	Thompson
Burling	Flood	Kremer	Preister	Wehrbein
Byars	Foley	Kruse	Price	
Cornett	Friend	Landis	Raikes	
Cudaback	Heidemann	McDonald	Schimek	

Voting in the negative, 0.

Present and not voting, 7:

Chambers	Connealy	Langemeier	Synowiecki
Combs	Hudkins	Redfield	

Excused and not voting, 5:

Beutler	Brown	Jensen	Louden	Stuthman
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The appointment was confirmed with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

Senator Baker moved the adoption of the Transportation and Telecommunications Committee report for the confirmation of the following appointment(s) found on page 867:

Nebraska Motor Vehicle Industry Licensing Board  
Jess Hull

Voting in the affirmative, 33:

Aguilar	Cornett	Foley	Kopplin	Price
Baker	Cudaback	Friend	Kremer	Schimek
Bourne	Cunningham	Heidemann	Kruse	Stuhr
Brashear	Engel	Howard	Mines	Synowiecki
Burling	Erdman	Hudkins	Pahls	Wehrbein
Byars	Fischer	Janssen	Pedersen, Dw.	
Connealy	Flood	Johnson	Preister	

Voting in the negative, 0.

Present and not voting, 11:

Chambers	Langemeier	Raikes	Smith
Combs	McDonald	Redfield	Thompson
Landis	Pederson, D.	Schrock	

Excused and not voting, 5:

Beutler	Brown	Jensen	Louden	Stuthman
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The appointment was confirmed with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

### **BILLS ON FINAL READING**

The following bill was read and put upon final passage:

#### **LEGISLATIVE BILL 10.**

A BILL FOR AN ACT relating to wages; to amend section 48-1220, Reissue Revised Statutes of Nebraska; to modify the definition of employer for purposes of sexual discrimination; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Cudaback	Howard	McDonald	Schimek
Baker	Cunningham	Hudkins	Mines	Smith
Beutler	Engel	Janssen	Pahls	Stuhr
Bourne	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Brashear	Fischer	Kopplin	Pederson, D.	Thompson
Byars	Flood	Kremer	Preister	Wehrbein
Combs	Foley	Kruse	Price	
Connealy	Friend	Landis	Raikes	
Cornett	Heidemann	Langemeier	Redfield	

Voting in the negative, 0.

Present and not voting, 2:

Burling            Schrock

Excused and not voting, 5:

Brown            Chambers            Jensen            Louden            Stuthman

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 76 with 41 ayes, 1 nay, 2 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 76. With Emergency.**

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-462, 60-462.01, 60-465, 60-484, 60-490, 60-4,131, 60-4,132, 60-4,137, 60-4,141, 60-4,143, 60-4,144, 60-4,149.01, 60-4,159, and 60-4,168, Reissue Revised Statutes of Nebraska, and section 29-3608, Revised Statutes Supplement, 2004; to change provisions relating to commercial driver's licenses; to adopt federal provisions for commercial motor vehicles; to change provisions relating to transporting hazardous materials; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 41:

Aguilar	Cudaback	Hudkins	McDonald	Schrock
Baker	Cunningham	Janssen	Mines	Smith
Beutler	Engel	Johnson	Pahls	Stuhr
Brashear	Erdman	Kopplin	Pedersen, Dw.	Thompson
Burling	Fischer	Kremer	Pederson, D.	Wehrbein
Byars	Foley	Kruse	Preister	
Combs	Friend	Landis	Price	
Connealy	Heidemann	Langemeier	Raikes	
Cornett	Howard	Louden	Redfield	

Voting in the negative, 0.

Present and not voting, 4:

Bourne	Flood	Schimek	Synowiecki
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Excused and not voting, 4:

Brown	Chambers	Jensen	Stuthman
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

#### **LEGISLATIVE BILL 94.**

A BILL FOR AN ACT relating to environmental protection; to amend section 81-1505.04, Revised Statutes Supplement, 2004; to modify provisions regarding the payment of fees for pollutants; to clarify existing provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Aguilar	Cornett	Heidemann	Langemeier	Redfield
Baker	Cudaback	Howard	Louden	Schimek
Beutler	Cunningham	Hudkins	McDonald	Schrock
Bourne	Engel	Janssen	Mines	Smith
Brashear	Erdman	Johnson	Pahls	Stuhr
Burling	Fischer	Kopplin	Pedersen, Dw.	Stuthman
Byars	Flood	Kremer	Pederson, D.	Synowiecki
Combs	Foley	Kruse	Price	Thompson
Connealy	Friend	Landis	Raikes	Wehrbein

Voting in the negative, 1:

Preister

Excused and not voting, 3:

Brown	Chambers	Jensen
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 98 with 42 ayes, 1 nay, 3 present and not voting, and 3 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 98.**

A BILL FOR AN ACT relating to elections; to amend sections 23-3557, 23-3575, 32-331, 32-558, 32-559, 32-807, 32-808, 32-936, 32-938 to 32-952, 32-958, 32-1027, 32-1030, 32-1031, 32-1032, 32-1502, 32-1539, 32-1544, 42-1207, and 53-122, Reissue Revised Statutes of Nebraska, and section 10-703.01, Revised Statutes Supplement, 2004; to provide for early voting; to delete references to absentee voting; to change provisions relating to special elections by mail; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Aguilar	Cudaback	Howard	McDonald	Schimek
Beutler	Cunningham	Hudkins	Mines	Schrock
Bourne	Engel	Janssen	Pahls	Smith
Brashear	Erdman	Johnson	Pedersen, Dw.	Stuhr
Burling	Fischer	Kopplin	Pederson, D.	Stuthman
Byars	Flood	Kruse	Preister	Synowiecki
Combs	Foley	Landis	Price	Thompson
Connealy	Friend	Langemeier	Raikes	Wehrbein
Cornett	Heidemann	Louden	Redfield	

Voting in the negative, 0.

Present and not voting, 2:

Baker	Kremer
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Excused and not voting, 3:

Brown	Chambers	Jensen
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 139 with 42 ayes, 1 nay, 3 present and not voting, and 3 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 139.** With Emergency.

A BILL FOR AN ACT relating to the public power industry; to amend sections 70-301, 70-601.01, 70-604, 70-604.02, 70-626, 70-628.01, 70-628.02, 70-628.03, 70-628.04, 70-631, 70-632, 70-636, 70-637, 70-646.01, 70-655, 70-667, 70-802, 70-1402, 70-1403, 70-1404, 70-1409, 70-1413, 70-1416, and 70-1417, Reissue Revised Statutes of Nebraska, and section 70-601, Revised Statutes Supplement, 2004; to authorize hydrogen production, storage, and distribution for use in fuel processes as prescribed; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Aguilar	Cudaback	Hudkins	McDonald	Schrock
Baker	Cunningham	Janssen	Mines	Smith
Beutler	Engel	Jensen	Pahls	Stuhr
Bourne	Erdman	Johnson	Pedersen, Dw.	Stuthman
Brashear	Fischer	Kopplin	Pederson, D.	Synowiecki
Burling	Flood	Kremer	Preister	Thompson
Byars	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	
Cornett	Howard	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 2:

Brown                      Chambers

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 169.**

A BILL FOR AN ACT relating to cities and villages; to amend section 18-1803, Reissue Revised Statutes of Nebraska; to change provisions relating to revenue bonds; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Cunningham	Janssen	Mines	Smith
Beutler	Engel	Jensen	Pahls	Stuhr
Bourne	Erdman	Johnson	Pedersen, Dw.	Stuthman
Brashear	Fischer	Kopplin	Pederson, D.	Synowiecki
Burling	Flood	Kremer	Preister	Thompson
Byars	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	
Cornett	Howard	Louden	Schimek	
Cudaback	Hudkins	McDonald	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Baker

Excused and not voting, 2:

Brown                      Chambers

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 198.**

A BILL FOR AN ACT relating to schools; to amend section 79-475, Reissue Revised Statutes of Nebraska, and section 79-1022, Revised Statutes Supplement, 2004; to provide for state aid payment adjustments to reflect transfers of property as prescribed; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Cudaback	Hudkins	Mines	Smith
Baker	Cunningham	Janssen	Pahls	Stuhr
Beutler	Engel	Jensen	Pedersen, Dw.	Stuthman
Bourne	Erdman	Johnson	Pederson, D.	Synowiecki
Brashear	Fischer	Kopplin	Preister	Thompson
Burling	Flood	Kremer	Price	Wehrbein
Byars	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	
Connealy	Heidemann	Langemeier	Schimek	
Cornett	Howard	McDonald	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Louden

Excused and not voting, 2:

Brown            Chambers

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 236.**

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-179, Reissue Revised Statutes of Nebraska; to change provisions relating to compensation court review procedure; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Cunningham	Janssen	Mines	Smith
Baker	Engel	Jensen	Pahls	Stuhr
Beutler	Erdman	Johnson	Pedersen, Dw.	Stuthman
Bourne	Fischer	Kopplin	Pederson, D.	Synowiecki
Brashear	Flood	Kremer	Preister	Thompson
Burling	Foley	Kruse	Price	Wehrbein
Byars	Friend	Landis	Raikes	
Combs	Heidemann	Langemeier	Redfield	
Connealy	Howard	Louden	Schimek	
Cudaback	Hudkins	McDonald	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Cornett

Excused and not voting, 2:

Brown                      Chambers

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 238 with 42 ayes, 1 nay, 4 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 238.**

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-115, 48-118, 48-120, 48-125, 48-126, 48-136, 48-144.01, 48-144.03, 48-144.04, 48-145, 48-146, 48-146.03, 48-155.01, 48-178, 48-178.01, and 48-1,117, Reissue Revised Statutes of Nebraska; to change provisions relating to compensation coverage, terminology, computation of interest, first injury reports, policy cancellation or nonrenewal, self-insurers, and acting judges; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Cudaback	Hudkins	McDonald	Schrock
Baker	Cunningham	Janssen	Mines	Smith
Beutler	Engel	Jensen	Pahls	Stuhr
Bourne	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Thompson
Chambers	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	
Cornett	Howard	Louden	Schimek	

Voting in the negative, 0.

Present and not voting, 1:

Brashear

Excused and not voting, 1:

Brown

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **SPEAKER BRASHEAR PRESIDING**

#### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 48, 49, 50, 51, and 52 were adopted.

#### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 48, 49, 50, 51, and 52.

### **SENATOR CUDABACK PRESIDING**

#### **BILLS ON FINAL READING**

The following bills were read and put upon final passage:

#### **LEGISLATIVE BILL 243.** With Emergency.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-162.02, 71-1796, and 71-17,100, Reissue Revised Statutes of Nebraska; to create the Nebraska Center for Nursing Fund; to authorize the allocation of fees to the fund; to extend the termination date of an act; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Aguilar	Cornett	Howard	Louden	Schimek
Baker	Cudaback	Hudkins	McDonald	Schrock
Beutler	Cunningham	Janssen	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Brashear	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Thompson
Chambers	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Brown

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

#### **LEGISLATIVE BILL 243A.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 243, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Aguilar	Cornett	Howard	Louden	Schimek
Baker	Cudaback	Hudkins	McDonald	Schrock
Beutler	Cunningham	Janssen	Mines	Stuhr
Bourne	Engel	Jensen	Pahls	Stuthman
Brashear	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Burling	Fischer	Kopplin	Pederson, D.	Thompson
Byars	Flood	Kremer	Preister	Wehrbein
Chambers	Foley	Kruse	Price	
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	

Voting in the negative, 0.

Present and not voting, 1:

Smith

Excused and not voting, 1:

Brown

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 244.** With Emergency.

A BILL FOR AN ACT relating to occupational therapy; to amend section 71-6123, Revised Statutes Supplement, 2004; to provide an operative date for certain provisions; to harmonize provisions; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Aguilar	Cornett	Howard	Louden	Schimek
Baker	Cudaback	Hudkins	McDonald	Schrock
Beutler	Cunningham	Janssen	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Brashear	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Thompson
Chambers	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Brown

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 246.**

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-434 and 71-6054, Reissue Revised Statutes of Nebraska; to change health care facility license fee provisions; to change provisions relating to nursing home administrators performing duties in more than one facility; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure

having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Cornett	Howard	Louden	Schimek
Baker	Cudaback	Hudkins	McDonald	Schrock
Beutler	Cunningham	Janssen	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Brashear	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Thompson
Chambers	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Brown

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 262.**

A BILL FOR AN ACT relating to cemeteries; to amend sections 12-402, 16-242, and 17-946, Reissue Revised Statutes of Nebraska; to authorize certain cities and villages to use funds for the purchase and development of land as prescribed; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Cudaback	Hudkins	McDonald	Schrock
Baker	Cunningham	Janssen	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Brashear	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Thompson
Chambers	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	
Cornett	Howard	Louden	Schimek	

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 1:

Brown

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 264.**

A BILL FOR AN ACT relating to social services; to amend sections 68-1202, 68-1207, and 68-1207.01, Reissue Revised Statutes of Nebraska; to provide for secondary prevention services; to provide duties for the Director of Health and Human Services relating to caseloads; to change provisions relating to reports; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Cudaback	Hudkins	McDonald	Schrock
Beutler	Cunningham	Janssen	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Brashear	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Thompson
Chambers	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	
Cornett	Howard	Louden	Schimek	

Voting in the negative, 0.

Present and not voting, 1:

Baker

Excused and not voting, 1:

Brown

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 284 with 40 ayes, 2 nays, 6 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 284.**

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-301, 60-354, 60-356, and 75-386, Reissue Revised Statutes of Nebraska; to update references to the International Registration Plan; to change provisions relating to trip permits; to eliminate an obsolete duty of the Division of Motor Carrier Services; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Cudaback	Hudkins	McDonald	Schrock
Baker	Cunningham	Janssen	Mines	Smith
Beutler	Engel	Jensen	Pahls	Stuhr
Bourne	Erdman	Johnson	Pedersen, Dw.	Stuthman
Brashear	Fischer	Kopplin	Pederson, D.	Synowiecki
Burling	Flood	Kremer	Preister	Thompson
Chambers	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	
Cornett	Howard	Louden	Schimek	

Voting in the negative, 0.

Present and not voting, 1:

Byars

Excused and not voting, 1:

Brown

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**SPEAKER BRASHEAR PRESIDING**

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 10, 76, 94, 98, 139, 169, 198, 236, 238, 243, and 243A.

**SENATOR CUDABACK PRESIDING****BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 298.** With Emergency.

A BILL FOR AN ACT relating to environmental remediation; to amend section 76-288, Reissue Revised Statutes of Nebraska, and section 66-1510, Revised Statutes Supplement, 2004; to redefine a term under the Petroleum Release Remedial Action Act; to adopt the Uniform Environmental Covenants Act; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 44:

Aguilar	Cornett	Heidemann	Langemeier	Redfield
Baker	Cudaback	Howard	Louden	Schimek
Beutler	Cunningham	Hudkins	McDonald	Schrock
Brashear	Engel	Janssen	Mines	Stuhr
Burling	Erdman	Jensen	Pahls	Stuthman
Byars	Fischer	Johnson	Pedersen, Dw.	Synowiecki
Chambers	Flood	Kopplin	Pederson, D.	Thompson
Combs	Foley	Kremer	Price	Wehrbein
Connealy	Friend	Kruse	Raikes	

Voting in the negative, 0.

Present and not voting, 4:

Bourne	Landis	Preister	Smith
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Excused and not voting, 1:

Brown

A constitutional two-thirds majority having voted in the affirmative, the bill

was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 355.**

A BILL FOR AN ACT relating to cemeteries; to provide for the transfer of cemetery ownership from cemetery associations to cities and villages.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Aguilar	Cornett	Howard	Langemeier	Raikes
Baker	Cudaback	Hudkins	Louden	Redfield
Beutler	Cunningham	Janssen	McDonald	Schimek
Bourne	Engel	Jensen	Mines	Smith
Burling	Erdman	Johnson	Pahls	Stuhr
Byars	Fischer	Kopplin	Pedersen, Dw.	Stuthman
Chambers	Foley	Kremer	Pederson, D.	Thompson
Combs	Friend	Kruse	Preister	Wehrbein
Connealy	Heidemann	Landis	Price	

Voting in the negative, 0.

Present and not voting, 4:

Brashear	Flood	Schrock	Synowiecki
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Excused and not voting, 1:

Brown

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 441. With Emergency.**

A BILL FOR AN ACT relating to agriculture; to amend sections 54-199 and 54-1,108, Reissue Revised Statutes of Nebraska; to change provisions relating to livestock brands; to change the livestock brand inspection fee; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Schimek
Baker	Cornett	Howard	Louden	Schrock
Beutler	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Burling	Fischer	Kopplin	Pederson, D.	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	

Voting in the negative, 0.

Present and not voting, 1:

Preister

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 533 with 42 ayes, 2 nays, and 5 present and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 533. With Emergency.**

A BILL FOR AN ACT relating to banking and finance; to amend sections 8-135, 8-318, 8-320, 8-702, 45-346, 45-348, 45-350, 45-703 to 45-707, 45-711, 45-910, 45-1001, 45-1005, 45-1006, 45-1013, 45-1024, 45-1032, 45-1033, and 45-1055, Reissue Revised Statutes of Nebraska, and sections 8-113, 8-115.01, 8-116.01, 8-120, 8-124, 8-143.01, 8-148, 8-157, 8-183.04, 8-1,140, 8-206, 8-213, 8-234, 8-305, 8-331, 8-355, 8-602, 8-701, 8-1006, 8-2401, 21-1725.01, 21-17,102, 21-17,115, 30-3116, 30-3117, 30-3803, 30-3805, 30-3810, 30-3822, 30-3836, 30-3837, 30-3849, 30-3855, 30-3867, 30-3878, and 30-3879, Revised Statutes Supplement, 2004; to change and eliminate provisions relating to banking, trust companies, and building and loan associations; to change credit report requirements of licensed executive officers; to revise powers of state-chartered banks, building and loan associations, and credit unions; to change and provide fees; to restrict third-party use of financial institution trademarks and tradenames for marketing purposes as prescribed; to change provisions relating to deposit insurance, accounts of minors, state-federal cooperation, sales of checks, credit card banks, credit unions, installment sales, mortgage bankers, delayed deposit services, and installment loans; to provide for administrative fines; to authorize total return trusts as prescribed; to change provisions

relating to the Nebraska Uniform Trust Code; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide operative dates; to repeal the original sections; to outright repeal section 8-385, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Aguilar	Cornett	Howard	Louden	Schimek
Baker	Cudaback	Hudkins	McDonald	Schrock
Beutler	Cunningham	Janssen	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Brashear	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Thompson
Chambers	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	

Voting in the negative, 0.

Present and not voting, 1:

Brown

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

## **SPEAKER BRASHEAR PRESIDING**

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 244, 246, 262, 264, 284, 298, 355, 441, and 533.

## **SENATOR CUDABACK PRESIDING**

### **MOTION - Return LB 335 to Select File**

Senator Schrock moved to return LB 335 to Select File for his specific pending amendment, AM0824, found on page 883.

The Schrock motion to return prevailed with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 335.** The Schrock specific pending amendment, AM0824, found on page 883, was adopted with 45 ayes, 0 nays, 3 present and not voting, and 1 excused and not voting.

Advanced to E & R for reengrossment.

**REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

Dunn, Paul - Nebraska Environmental Trust Board - Natural Resources

Erickson, Gloria - Nebraska Environmental Trust Board - Natural Resources

Seacrest, Susan - Nebraska Environmental Trust Board - Natural Resources

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

**GENERAL FILE**

**LEGISLATIVE BILL 739.** The Standing Committee amendment, AM0747, printed separately and referred to on page 822 and considered on page 883, was renewed.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA106

Amend AM0747

On page 7, line 2 after "cash" insert ", but the wages of sin is death"

Senator Chambers withdrew his amendment.

Senator Chambers requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is as follows:

(FA109 consists of Sections 5, 7, 10, and 12 of the Standing Committee amendment.)

Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA108

Amend AM0747

On page 26, line 23 strike "ten" and insert "20".

**SENATOR SCHIMEK PRESIDING****SENATOR CUDABACK PRESIDING**

Pending.

**AMENDMENTS - Print in Journal**

Senator Chambers filed the following amendment to LB 739:

FA107

Amend AM0747

On page 15, line 15 strike "notify" and show as stricken, and insert "tattle to"

Senator Synowiecki filed the following amendment to LB 273:

AM0845

(Amendments to Standing Committee amendments, AM0639)

- 1 1. Strike amendment 1 and insert the following new
- 2 amendments:
- 3 "1. On page 2, line 4, strike 'rural'; in line 20 strike
- 4 'Rural Development Commission' and insert 'Department of Economic
- 5 Development'; in line 21 strike 'Department of Economic
- 6 Development' and insert 'Rural Development Commission'; in line 24
- 7 after 'project' insert 'or to a single political subdivision that
- 8 is doing a project within a designated enterprise zone pursuant to
- 9 42 U.S.C. 11501'; and in line 27 after 'subdivisions' insert 'or
- 10 the individual political subdivision'.
- 11 2. On page 3, line 4, strike 'or'; and in line 7 after
- 12 'time' insert ' or
- 13 (c) A designated enterprise zone pursuant to 42 U.S.C.
- 14 11501'; in line 9 strike 'collaborative'; and in line 13 after
- 15 'awarded' insert 'in the case of a single political subdivision
- 16 planning the project, directly to such political subdivision, and,
- 17 in the case of collaborating political subdivisions,'."

Senator Chambers filed the following amendment to LB 739:

FA113

Amend FA109

Strike section 10

Senator Chambers filed the following amendment to LB 739:

FA114

Amend FA109

Strike section 5.

Senator Chambers filed the following amendment to LB 739:

FA115

Amend FA109

Strike section 7.

Senator Chambers filed the following amendment to LB 739:

FA116

Amend FA109

Strike section 12.

## **STANDING COMMITTEE REPORTS**

### **Nebraska Retirement Systems**

**LEGISLATIVE BILL 367.** Placed on General File as amended.

Standing Committee amendment to LB 367:

AM0612

- 1 1. On page 5, line 7, after "paid" insert "and
- 2 information submitted"; and strike beginning with line 12 through
- 3 "received" in line 13 and insert "is not timely received or the
- 4 money is delinquent".

**LEGISLATIVE BILL 468.** Indefinitely postponed.

(Signed) Elaine Stuhr, Chairperson

## **PRESENTED TO THE GOVERNOR**

Presented to the Governor on March 17, 2005, at 10:45 a.m. were the following: LBs 10, 76e, 94, 98, 139e, 169, 198, 236, 238, 243e, 243Ae, 244e, 246, 262, 264, 284, 298e, 355, 441e, and 533e.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

## **RESOLUTION**

**LEGISLATIVE RESOLUTION 60.** Introduced by Howard, 9.

WHEREAS, Marge Higgins served her Omaha constituents with distinction as a state senator from 1981-1988; and

WHEREAS, Marge Higgins was a strong leader for women legislators at a time in Nebraska and the United States when female legislators were rare; and

WHEREAS, during her legislative career Marge Higgins was an advocate for nursing home residents and fought for better and more dignified living conditions for Nebraska's elderly; and

WHEREAS, Marge Higgins was at the forefront of the consumer rights movement, passing legislation that required consumer reporting agencies to provide report copies to consumers; and

WHEREAS, Marge Higgins continued to fight for her issues in the 1986 campaign for Governor of Nebraska; and

WHEREAS, Marge Higgins served her community with service as chair

of the Douglas County Corrections Advisors Committee, director of the YWCA, and a member of the Douglas County Juvenile Court Judicial Nominating Committee, the American Legion Auxiliary, and the Fraternal Order of Eagles.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Legislature recognizes and honors the achievements of Marge Higgins.

2. That the Clerk of the Legislature send a copy of this resolution to Marge Higgins.

Laid over.

### **VISITORS**

Visitors to the Chamber were Eric Hamilton from Omaha; Richard Smith from Elkhorn; 18 members of Leadership Columbus; Wil O'Shaughnessy from Omaha; 22 fourth-grade students and teacher from Blessed Sacrament, Lincoln; 50 Buffalo County Youth; fourth- and fifth-grade students and teacher from Center District 28, Buffalo County; 20 eighth-grade students and teacher from Lexington; 18 fourth-grade students and teacher from Pawnee City; Senator Pahls' wife, daughter, and son, Lyn, Morgan, and Jake Pahls and Andrew MacFarlane from Omaha, and Madysen Lenihan from Elkhorn; and 24 fifth-grade students and teacher from Meridian Public Schools, Daykin.

### **ADJOURNMENT**

At 12:01 p.m., on a motion by Senator Langemeier, the Legislature adjourned until 10:00 a.m., Monday, March 21, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

# **FORTY-SEVENTH DAY - MARCH 21, 2005**

## **LEGISLATIVE JOURNAL**

### **NINETY-NINTH LEGISLATURE FIRST SESSION**

#### **FORTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, March 21, 2005

#### **PRAYER**

The prayer was offered by Senator Price.

#### **ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Heidemann and Kopplin who were excused; and Senators Schimek and Thompson who were excused until they arrive.

#### **CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-sixth day was approved.

#### **SELECT COMMITTEE REPORTS Enrollment and Review**

**LEGISLATIVE BILL 588.** Placed on Select File as amended.  
E & R amendment to LB 588:  
AM7061

- 1 1. On page 4, line 13, strike "(10)(c)" and insert
- 2 "(10)(a)".
- 3 2. On page 16, line 16, after "Section" insert
- 4 "employee".
- 5 3. On page 20, line 13; and page 25, line 11, strike the
- 6 new matter and insert "(16)".

**LEGISLATIVE BILL 382.** Placed on Select File as amended.  
E & R amendment to LB 382:  
AM7062

- 1 1. In the Standing Committee amendment, AM0702, on page
- 2 66, line 22, strike "Center" and insert "Centers".
- 3 2. On page 1, line 9, after the first semicolon insert
- 4 "to provide for relabeling and redispensing of certain prescription

5 drugs and devices;" and strike the last "and"; and in line 10 after 6 "sections" insert "; and to declare an emergency".

### **Correctly Engrossed**

The following bill was correctly engrossed: LB 570.

ER9017

#### **Enrollment and Review Change to LB 570**

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Standing Committee amendments, AM0229, on page 1, line 8, an underscored comma has been inserted after "1-201".

(Signed) Michael Flood, Chairperson

### **MESSAGE FROM THE SECRETARY OF STATE**

March 17, 2005

Patrick O'Donnell  
Clerk of the Legislature  
Room 2018, State Capitol  
Lincoln, NE 68509

Dear Mr. O'Donnell:

The purpose of this letter is to inform you and the honorable members of the Legislature that I have made the following appointment requiring Legislative confirmation:

Ms. Kim Quandt (Republican) to the Nebraska Accountability and Disclosure Commission on June 30, 2005, to serve a six-year term ending on June 20, 2011. Since Commissioner Quandt was initially appointed to an unexpired term, she is eligible for appointment to a full six-year term.

This appointment is made by me pursuant to the provisions of Sections 49-14,106 through 49-14,120.

Thank you for your consideration. If you have questions or if I can provide additional information, please feel free to contact me.

Sincerely,  
(Signed) John A. Gale  
Secretary of State

Sh

**GENERAL FILE**

**LEGISLATIVE BILL 121.** Title read. Considered.

The Standing Committee amendment, AM0046, found on page 357, lost with 2 ayes, 30 nays, 13 present and not voting, and 4 excused and not voting.

Senator Schrock withdrew his pending amendment, AM0154, found on page 402.

Senator Schrock renewed his pending amendment, AM0664, found on page 685.

The Schrock amendment was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 234.** Title read. Considered.

The Standing Committee amendment, AM0134, found on page 386, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

**ANNOUNCEMENT**

The Chair announced today is Senator Schimek's birthday.

**GENERAL FILE**

**LEGISLATIVE BILL 516.** Title read. Considered.

Advanced to E & R for review with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 485.** Title read. Considered.

Advanced to E & R for review with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 492.** Title read. Considered.

The Standing Committee amendment, AM0326, found on page 481, was

adopted with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 39.** Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 352.** Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 299.** Title read. Considered.

The Standing Committee amendment, AM0500, found on page 577, was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 144.** Title read. Considered.

The Standing Committee amendment, AM0462, found on page 669, was adopted with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 19 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 684.** Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 684A.** Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 19 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 668.** Title read. Considered.

The Standing Committee amendment, AM0684, found on page 730, was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Senator Johnson withdrew his pending amendment, AM0445, found on page 558.

Advanced to E & R for review with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 131.** Title read. Considered.

The Standing Committee amendment, AM0604, found on page 753, was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

### **AMENDMENTS - Print in Journal**

Senator Kremer filed the following amendment to LB 439:  
AM0871

- 1 1. On page 9, reinstate the stricken matter beginning
- 2 with "or" in line 20 through the last comma in line 21.
- 3 2. On page 10, lines 12 and 13, reinstate the stricken
- 4 matter.

Senator Smith filed the following amendment to LB 256:  
AM0842

(Amendments to Standing Committee amendments, AM0542)

- 1 1. Insert the following new amendments:
- 2 "1. Insert the following new section:
- 3 'Sec. 92. Section 71-2048.01, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 71-2048.01. Any hospital required to be licensed under
- 6 the Health Care Facility Licensure Act shall not deny clinical
- 7 privileges to physicians and surgeons, podiatrists, osteopathic
- 8 physicians, osteopathic physicians and surgeons, licensed
- 9 psychologists, ~~or~~ dentists, or advanced practice registered nurses
- 10 solely by reason of the license held by the practitioner. Each
- 11 such hospital shall establish reasonable standards and procedures
- 12 to be applied when considering and acting upon an application for
- 13 medical staff membership and privileges. Once an application is
- 14 determined to be complete by the hospital and is verified in
- 15 accordance with such standards and procedures, the hospital shall
- 16 notify the applicant of its initial recommendation regarding
- 17 membership and privileges within one hundred twenty days.'
- 18 22. Amend the repealer and renumber the remaining
- 19 sections accordingly."
- 20 2. Renumber the remaining amendments accordingly.

Senator Smith filed the following amendment to LB 256:  
AM0841

(Amendments to Standing Committee amendments, AM0542)

- 1 1. Insert the following new amendments:
- 2 "1. Insert the following new section:
- 3 'Sec. 17. Section 44-513, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 44-513. Whenever any insurer provides by contract,
- 6 policy, certificate, or any other means whatsoever for a service,
- 7 or for the partial or total reimbursement, payment, or cost of a
- 8 service, to or on behalf of any of its policyholders, group
- 9 policyholders, subscribers, or group subscribers or any person or
- 10 group of persons, which service may be legally performed by a
- 11 person licensed in this state for the practice of osteopathic
- 12 medicine and surgery, chiropractic, optometry, psychology,
- 13 dentistry, podiatry, ~~or~~ mental health practice, or advanced nursing
- 14 practice the person rendering such service or such policyholder,
- 15 subscriber, or other person shall be entitled to such partial or
- 16 total reimbursement, payment, or cost of such service, whether the
- 17 service is performed by a duly licensed medical doctor, ~~or by a~~
- 18 ~~duly licensed~~ osteopathic physician, chiropractor, optometrist,
- 19 psychologist, dentist, podiatrist, ~~or~~ mental health practitioner,
- 20 or advanced practice registered nurse. This section shall not
- 21 limit the negotiation of preferred provider policies and contracts
- 22 under sections 44-4101 to 44-4113.'
- 23 22. Amend the repealer and renumber the remaining
- 1 sections accordingly."
- 2 2. Renumber the remaining amendments accordingly.

Senator Stuhr filed the following amendment to LB 72:  
AM0619

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Sections 1 to 13 of this act shall be known
- 4 and may be cited as the Security Personnel Licensing Act.
- 5 Sec. 2. For purposes of the Security Personnel Licensing
- 6 Act:
- 7 (1) Contract security service means protective services
- 8 provided by one entity to another entity on a compensated basis;
- 9 (2) Proprietary security service means an organization or
- 10 department of that organization that provides security services
- 11 solely for the operation of the organization or activities of the
- 12 organization;
- 13 (3) Security officer means an individual other than an
- 14 employee of a federal, state, or local government, an employee of a
- 15 political subdivision, or an individual appointed as a deputy state
- 16 sheriff pursuant to section 84-106, whose primary duty is to
- 17 perform a contract security service or proprietary security
- 18 service, full or part-time, for consideration, whether armed or

19 unarmed, in a uniform registered with and approved by the Secretary  
20 of State or in plain clothes. Security officer does not include an  
21 employee whose sole duty is internal auditing or credit functions,  
22 a technician, a monitor of electronic security systems, or others  
23 not purporting to perform security services, such as bouncers,  
24 parking lot attendants, house-sitters, or event staff;

1 (4) Security services mean the protection of human and  
2 physical resources;

3 (5) Secretary of State means the Secretary of State or  
4 his or her designee;

5 (6) Security officer firearms permit means a permit that  
6 is given to a licensed security officer following the completion of  
7 an application process, a criminal history record information check  
8 by the Federal Bureau of Investigation through the Nebraska State  
9 Patrol, and upon the submission and approval of evidence of  
10 successfully completing an approved firearms training course;

11 (7) Uniform means a manner of dress of a particular style  
12 and distinctive appearance as distinguished from ordinary clothing  
13 customarily used and worn by the general public or by law  
14 enforcement officials; and

15 (8) Unlawful conduct means any conduct that results in a  
16 felony conviction, a Class I misdemeanor conviction, any drug or  
17 alcohol offense conviction within the previous twelve months, any  
18 conviction of an offense that would be considered a domestic  
19 violence offense, or being subject to a current protection order.

20 Sec. 3. Every security officer shall be licensed under  
21 the Security Personnel Licensing Act.

22 Sec. 4. The Secretary of State shall:

23 (1) License applicants as security officers who meet the  
24 guidelines, standards, requirements, and qualifications of the  
25 Security Personnel Licensing Act;

26 (2) Issue an applicant a security officer firearms permit  
27 if he or she meets the guidelines, standards, requirements, and  
1 qualifications of the Security Personnel Licensing Act and submits  
2 evidence of successfully completing an approved firearms training  
3 course. An approved firearms training course shall include, but  
4 not be limited to:

5 (a) Knowledge and safe handling of a handgun;

6 (b) Knowledge and safe handling of handgun ammunition;

7 (c) A demonstration of competency with a handgun with  
8 respect to the minimum safety and training requirements;

9 (d) Knowledge of federal, state, and local laws  
10 pertaining to the use of a handgun, including, but not limited to,  
11 use of a handgun for self-defense and laws relating to justifiable  
12 homicide and the various degrees of assault;

13 (e) Knowledge of ways to avoid a criminal attack and to  
14 defuse or control a violent confrontation; and

15 (f) Knowledge of proper storage practices for handguns  
16 and ammunition, including storage practices which would reduce the

- 17 possibility of accidental injury to a child;
- 18 (3) Establish minimum guidelines for educating and  
19 training licensees under the act. Such minimum guidelines may  
20 include, but not be limited to:
- 21 (a) Basic first aid;  
22 (b) Cardiopulmonary resuscitation;  
23 (c) Crowd control;  
24 (d) Emergency response procedures;  
25 (e) Ethics, honesty, professionalism, and proper conduct;  
26 (f) Knowledge of civil and criminal statutes pertaining  
27 to security services or practices;
- 1 (g) Note-taking and report writing;  
2 (h) Patrol techniques and observation of unusual  
3 circumstances;  
4 (i) Safety and security awareness; or  
5 (j) Use of force;
- 6 (4) Provide information to interested persons in matters  
7 concerning the laws that govern the practices licensed under the  
8 act;
- 9 (5) Enforce the act by reviewing and investigating  
10 complaints of violations of the act and suspending or revoking  
11 licenses issued under the act if necessary. Any applicant,  
12 licensee, or other person directly and adversely affected by any  
13 order of the Secretary of State may appeal such order and the  
14 appeal shall be in accordance with the Administrative Procedure  
15 Act;
- 16 (6) Prescribe minimum license qualifications;
- 17 (7) Prescribe rules and regulations governing  
18 applications for licenses and other matters as prescribed under the  
19 act in accordance with the Administrative Procedure Act;
- 20 (8) Establish conditions for reinstatement and renewal of  
21 licenses; and
- 22 (9) Employ additional personnel, if necessary, to enforce  
23 the Security Personnel Licensing Act.
- 24 Sec. 5. The Secretary of State shall set up minimum  
25 standards for obtaining a license that shall include, but not be  
26 limited to, the following:
- 27 (1) Require the applicant to submit an application in a  
1 form prescribed by the Secretary of State;
- 2 (2) Require the applicant to pay a fee. The fee shall be  
3 based upon the costs of administering the act.
- 4 (3) Require the applicant not to have been convicted of  
5 unlawful conduct;
- 6 (4) Require that the applicant not have been declared by  
7 any court of competent jurisdiction incompetent by reason of mental  
8 defect or disease and not been restored;
- 9 (5) Require that the applicant not be currently suffering  
10 from habitual drunkenness or from drug addiction or dependence;
- 11 (6) Require that the applicant be at least eighteen years

12 of age for a license under the act and twenty-one years of age for  
13 a security officer firearms permit;

14 (7) Require that the applicant provide a full set of  
15 fingerprints to the Secretary of State. The applicant shall  
16 request that the Nebraska State Patrol submit the fingerprints to  
17 the Federal Bureau of Investigation for a national criminal history  
18 record check. The applicant shall pay the actual cost, if any, of  
19 the fingerprinting and check of his or her criminal history record  
20 information. The applicant shall authorize release of the national  
21 criminal history record check to the Secretary of State. The  
22 criminal history record check shall be completed within ninety days  
23 after the date the application for a license is received by the  
24 Secretary of State, and if not, the application shall be returned  
25 to the applicant. The applicant may request issuance of a  
26 ninety-day temporary license prior to receipt by the Secretary of  
27 State of the completed national criminal history record check. If

1 the national criminal history record check reveals a basis for  
2 denial of a license, the ninety-day temporary license shall be  
3 revoked;

4 (8) Require that the applicant comply with other  
5 qualifications and requirements of the Secretary of State as  
6 adopted and promulgated by rule and regulation;

7 (9) Require that the applicant, prior to completion of  
8 the national criminal history record check, submit evidence of  
9 successfully completing any education and training requirements  
10 established by the Secretary of State by rule and regulation.  
11 Trainers may be employed by a contract security service or  
12 proprietary security service but shall be approved by the Secretary  
13 of State. Trainers shall:

14 (a) Be at least eighteen years of age to train an  
15 applicant for a license and twenty-one years of age to train an  
16 applicant for a security officer firearms permit;

17 (b) Teach from a syllabus and training program that is  
18 approved by the advisory committee and Secretary of State; and

19 (c) Provide proof of qualification to teach specific  
20 areas of training related to the field of security.

21 Sec. 6. The Security Personnel Licensing Fund is  
22 created. All funds collected under the Security Personnel  
23 Licensing Act shall be remitted to the State Treasurer for credit  
24 to the fund. The fund may be used by the Secretary of State to  
25 carry out the act. Any money in the fund available for investment  
26 shall be invested by the state investment officer pursuant to the  
27 Nebraska Capital Expansion Act and the Nebraska State Funds  
1 Investment Act.

2 Sec. 7. (1) An applicant for license or license renewal  
3 under the Security Personnel Licensing Act shall deposit with each  
4 application the fee for the license and, if necessary, the fees  
5 associated with processing the fingerprints. The fee for the  
6 license shall be set by the Secretary of State by rule and

7 regulation and shall be based upon the costs of administering the  
8 act.

9 (2) If the application is approved, the deposited amount  
10 shall be applied to the license fee. If the application is  
11 disapproved, the deposited amount, excluding the fees associated  
12 with the processing of the fingerprints, shall be refunded to the  
13 applicant.

14 Sec. 8. (1) The department shall issue to each licensee  
15 an identification card in a form approved by the Secretary of State  
16 by rule and regulation. The application for a permanent  
17 identification card shall include a temporary identification card  
18 valid for ninety days from the date of receipt by the applicant.

19 (2) The fee for each replacement identification card is  
20 ten dollars.

21 Sec. 9. (1) Any person who holds a valid license to act  
22 as a security officer issued by the proper authority in another  
23 state and based upon requirements and qualifications similar to  
24 those of the Security Personnel Licensing Act may be issued a  
25 temporary permit to act as a security officer in this state, if  
26 such person's licensing jurisdiction extends by reciprocity similar  
27 privileges to a person licensed to act as a security officer by  
1 this state. Any reciprocal agreement approved by the Secretary of  
2 State shall provide that any misconduct by a person issued a  
3 temporary permit to act as a security officer in this state will be  
4 dealt with in such person's licensing jurisdiction as though the  
5 violation occurred in that licensing jurisdiction.

6 (2) The Secretary of State shall adopt and promulgate by  
7 rule and regulation a fee for the issuance of a temporary permit  
8 under this section. The fee shall be based on the cost of  
9 administering this section.

10 Sec. 10. A person licensed as a security officer and  
11 holding a security officer firearms permit is exempt from the  
12 provisions of section 28-1202 while acting within the scope of his  
13 or her employment as a security officer in accordance with the act  
14 and any rules and regulations adopted and promulgated under the  
15 act.

16 Sec. 11. A licensee under the Security Personnel  
17 Licensing Act and a security officer firearms permit shall expire  
18 on October 1 of each odd-numbered year.

19 Sec. 12. (1) An advisory committee is created to advise  
20 the Secretary of State in administering the Security Personnel  
21 Licensing Act. The committee shall consist of the following  
22 members appointed by the Governor:

- 23 (a) One proprietary security service representative;
- 24 (b) One contract security service representative;
- 25 (c) One attorney;
- 26 (d) One higher education instructor;
- 27 (e) One member of the law enforcement community; and
- 1 (f) Two members at large.

2 (2) The committee shall elect from its members a  
3 chairperson. The terms of the members of the committee shall be  
4 three years, except that the terms of the initial committee members  
5 shall be staggered so that two members are appointed for a term of  
6 one year, two for a term of two years, and three for a term of  
7 three years, as determined by the Governor. Members appointed  
8 shall be reimbursed for their actual and necessary expenses as  
9 provided in sections 81-1174 to 81-1177.

10 Sec. 13. A person who does any of the following is  
11 guilty of a Class I misdemeanor:

12 (1) Makes a false statement or representation in an  
13 application or statement filed with the Secretary of State as  
14 required by the Security Personnel Licensing Act;

15 (2) Falsely states, represents, or fails to disclose as  
16 required by the act, that the person has been or is a security  
17 officer;

18 (3) Falsely advertises that the person is licensed as a  
19 security officer under the act; or

20 (4) Acts or otherwise represents himself or herself as a  
21 security officer without possessing a current valid license as  
22 provided under the act.

23 Sec. 14. This act becomes operative on April 1, 2006."

Senator Preister filed the following amendment to LB 501:  
AM0854

(Amendments to Final Reading copy)

1 1. Insert the following new section:

2 "Section 1. Section 84-1411, Revised Statutes  
3 Supplement, 2004, is amended to read:

4 84-1411. (1) Each public body shall give reasonable  
5 advance publicized notice of the time and place of each meeting by  
6 a method designated by each public body and recorded in its  
7 minutes. Such notice shall be transmitted to all members of the  
8 public body and to the public. Such notice shall contain an agenda  
9 of subjects known at the time of the publicized notice or a  
10 statement that the agenda, which shall be kept continually current,  
11 shall be readily available for public inspection at the principal  
12 office of the public body during normal business hours. Such  
13 notice and agenda shall contain at least a one-line description or  
14 explanation of each agenda item, including the reason and  
15 explanation for any proposed closed session. Except for items of  
16 an emergency nature, the agenda shall not be altered later than (a)  
17 twenty-four hours before the scheduled commencement of the meeting  
18 or (b) forty-eight hours before the scheduled commencement of a  
19 meeting of a city council or village board scheduled outside the  
20 corporate limits of the municipality. The public body shall have  
21 the right to modify the agenda to include items of an emergency  
22 nature only at such public meeting.

23 (2) A meeting of a state agency, state board, state

1 commission, state council, or state committee, of an advisory  
2 committee of any such state entity, of an organization created  
3 under the Interlocal Cooperation Act, the Joint Public Agency Act,  
4 or the Municipal Cooperative Financing Act, of the governing body  
5 of a public power district having a chartered territory of more  
6 than fifty counties in this state, or of the governing body of a  
7 risk management pool or its advisory committees organized in  
8 accordance with the Intergovernmental Risk Management Act may be  
9 held by means of videoconferencing or, in the case of the Judicial  
10 Resources Commission in those cases specified in section 24-1204,  
11 by telephone conference, if:

12 (a) Reasonable advance publicized notice is given;

13 (b) Reasonable arrangements are made to accommodate the  
14 public's right to attend, hear, and speak at the meeting, including  
15 seating, recordation by audio or visual recording devices, and a  
16 reasonable opportunity for input such as public comment or  
17 questions to at least the same extent as would be provided if  
18 videoconferencing or telephone conferencing was not used;

19 (c) At least one copy of all documents being considered  
20 is available to the public at each site of the videoconference or  
21 telephone conference;

22 (d) At least one member of the state entity, advisory  
23 committee, or governing body is present at each site of the  
24 videoconference or telephone conference; and

25 (e) No more than one-half of the state entity's, advisory  
26 committee's, or governing body's meetings in a calendar year are  
27 held by videoconference or telephone conference.

1 Videoconferencing, telephone conferencing, or  
2 conferencing by other electronic communication shall not be used to  
3 circumvent any of the public government purposes established in the  
4 Open Meetings Act.

5 (3) A meeting of the governing body of an entity formed  
6 under the Interlocal Cooperation Act or the Joint Public Agency Act  
7 or of the governing body of a risk management pool or its advisory  
8 committees organized in accordance with the Intergovernmental Risk  
9 Management Act may be held by telephone conference call if:

10 (a) The territory represented by the member public

11 agencies of the entity or pool covers more than one county;

12 (b) Reasonable advance publicized notice is given which  
13 identifies each telephone conference location at which a member of  
14 the entity's or pool's governing body will be present;

15 (c) All telephone conference meeting sites identified in  
16 the notice are located within public buildings used by members of  
17 the entity or pool or at a place which will accommodate the  
18 anticipated audience;

19 (d) Reasonable arrangements are made to accommodate the  
20 public's right to attend, hear, and speak at the meeting, including  
21 seating, recordation by audio recording devices, and a reasonable  
22 opportunity for input such as public comment or questions to at

23 least the same extent as would be provided if a telephone  
24 conference call was not used;  
25 (e) At least one copy of all documents being considered  
26 is available to the public at each site of the telephone conference  
27 call;

1 (f) At least one member of the governing body of the  
2 entity or pool is present at each site of the telephone conference  
3 call identified in the public notice;

4 (g) The telephone conference call lasts no more than one  
5 hour; and

6 (h) No more than one-half of the entity's or pool's  
7 meetings in a calendar year are held by telephone conference call.

8 Nothing in this subsection shall prevent the  
9 participation of consultants, members of the press, and other  
10 nonmembers of the governing body at sites not identified in the  
11 public notice. Telephone conference calls, emails, faxes, or other  
12 electronic communication shall not be used to circumvent any of the  
13 public government purposes established in the Open Meetings Act.

14 (4) The secretary or other designee of each public body  
15 shall maintain a list of the news media requesting notification of  
16 meetings and shall make reasonable efforts to provide advance  
17 notification to them of the time and place of each meeting and the  
18 subjects to be discussed at that meeting.

19 (5) When it is necessary to hold an emergency meeting  
20 without reasonable advance public notice, the nature of the  
21 emergency shall be stated in the minutes and any formal action  
22 taken in such meeting shall pertain only to the emergency. Such  
23 emergency meetings may be held by means of electronic or  
24 telecommunication equipment. The provisions of subsection (4) of  
25 this section shall be complied with in conducting emergency  
26 meetings. Complete minutes of such emergency meetings specifying  
27 the nature of the emergency and any formal action taken at the  
1 meeting shall be made available to the public by no later than the  
2 end of the next regular business day.

3 (6) A public body may allow a member of the public or any  
4 other witness other than a member of the public body to appear  
5 before the public body by means of video or telecommunications  
6 equipment."

7 2. On page 1, line 2, after "Nebraska" insert ", and  
8 section 84-1411, Revised Statutes Supplement, 2004"; in line 3  
9 after "the" insert "requirements for the notice and agenda and";  
10 and in line 4 strike "section" and insert "sections".

11 3. On page 2, line 27, strike "is" and insert "and  
12 section 84-1411, Revised Statutes Supplement, 2004, are".

13 4. Renumber the remaining sections accordingly.

**RESOLUTION****LEGISLATIVE RESOLUTION 61.** Introduced by Stuhr, 24.

WHEREAS, Michael A. Aunkst was a long-time resident of York County who graduated from Bradshaw High School and settled in Benedict; and

WHEREAS, Michael Aunkst, who believed in volunteer service to his community, chose to serve Benedict with enthusiastic dedication through the Volunteer Fire Department; and

WHEREAS, Michael Aunkst was appreciated by his fellow firefighters for his strong support of modern firefighting training and equipment; and

WHEREAS, Michael Aunkst suffered a heart attack and died in the line of duty during a mutual-aid fire call in the Gresham area on February 27, 2005; and

WHEREAS, Nebraskans honor and deeply appreciate "first responders" who serve their many communities in times of greatest need.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature honors the memory of Michael A. Aunkst and his outstanding service to the Benedict Fire Department and to area residents.

2. That a copy of this resolution be sent to his wife, Teresa, his daughter Liza, and his stepson Dustin Welch, all at home in Benedict, Nebraska.

Laid over.

**REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

Quandt, Kim - Accountability and Disclosure Commission - Government, Military and Veterans Affairs

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

**STANDING COMMITTEE REPORTS**  
**Urban Affairs**

**LEGISLATIVE BILL 735.** Placed on General File.

**LEGISLATIVE BILL 302.** Placed on General File as amended.

Standing Committee amendment to LB 302:

AM0861

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 15-201, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 15-201. Cities of the primary class shall be bodies

6 corporate and politic and shall have power:

7 (1) To sue and be sued;

8 (2) To purchase, lease, or otherwise acquire as

9 authorized by their home rule charters or state statutes real  
10 estate or personal property within or without the limits of the  
11 city for its use for a public purpose;

12 (3) To purchase real or personal property upon sale for  
13 general or special taxes or assessments and to lease, sell, convey,  
14 or exchange such property so purchased;

15 (4) To sell, convey, exchange, or lease real or personal  
16 property owned by the city in such manner and upon such terms and  
17 conditions as shall be deemed in the best interests of the city as  
18 authorized by its home rule charter, except that real estate owned  
19 by the city may be conveyed without consideration to the State of  
20 Nebraska for state armory sites or, if acquired for state armory  
21 sites, shall be conveyed in the manner strictly as provided in  
22 sections 18-1001 to 18-1006;

23 (5) To make contracts and do all acts relative to the  
24 property and concerns of the city necessary or incident or  
1 appropriate to the exercise of its corporate powers, including  
2 powers granted by the Constitution of Nebraska or exercised by or  
3 pursuant to a home rule charter adopted pursuant thereto and  
4 including the power to execute such bonds and obligations on the  
5 part of the city as may be required in judicial proceedings;  
6 (6) To purchase, construct, and otherwise acquire, own,  
7 maintain, and operate public service and public utility property  
8 and facilities within and without the limits of the city and to  
9 redeem such property from prior encumbrance in order to protect or  
10 preserve the interest of the city therein and to exercise such  
11 other and further powers as may be necessary or incident or  
12 appropriate to the powers of such city, including powers granted by  
13 the Constitution of Nebraska or exercised by or pursuant to a home  
14 rule charter adopted pursuant thereto. If the public service or  
15 public utility property or facility is located outside the limits  
16 of the city but within the zoning jurisdiction of another political  
17 subdivision, the city and the other political subdivision may by  
18 interlocal agreement provide or exchange services, including  
19 utility services, relating to the property or facilities; ~~and~~

20 (7) To receive grants, devises, donations, and bequests  
21 of money or property for public purposes in trust or otherwise; and  
22 (8) To provide for the planting, maintenance, protection,  
23 and removal of shade, ornamental, and other useful trees upon the  
24 streets or boulevards; to assess the cost thereof, when  
25 appropriate, as a special assessment against the property specially  
26 benefited to the extent of benefits received; and to provide by  
27 general ordinance for the manner in which such benefits are to be  
1 measured and the assessments calculated. The city may create  
2 districts by ordinance which shall designate the property within  
3 the district to be benefited.

4 The powers shall be exercised by the mayor and council of  
5 the city except in cases otherwise specified by law. The mayor and  
6 council shall adopt a corporate seal for the use of any officer,  
7 board, or agent of the city whose duties require an official seal.  
8 Sec. 2. Original section 15-201, Reissue Revised  
9 Statutes of Nebraska, is repealed."

**LEGISLATIVE BILL 734.** Placed on General File as amended.  
Standing Committee amendment to LB 734:  
AM0862

1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 31-735, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 31-735. (1) On the first Tuesday after the second Monday  
6 in September which is at least fifteen months after the judgment of  
7 the district court creating a sanitary and improvement district and  
8 on the first Tuesday after the second Monday in September each two  
9 years thereafter, the board of trustees shall cause a special  
10 election to be held, at which election a board of trustees of five  
11 in number shall be elected. Each member elected to the board of  
12 trustees shall be elected to a term of two years and shall hold  
13 office until such member's successor is elected and qualified. Any  
14 person desiring to file for the office of trustee may file for such  
15 office with the election commissioner, or county clerk in counties  
16 having no election commissioner, of the county in which the greater  
17 proportion in area of the district is located not later than fifty  
18 days before the election. If such person will serve on the board  
19 of trustees as a designated representative of a limited  
20 partnership, general partnership, limited liability company,  
21 public, private, or municipal corporation, estate, or irrevocable  
22 trust which owns real estate in the district, the filing shall  
23 indicate that fact and shall include appropriate documentation  
24 evidencing such fact. No filing fee shall be required. A person  
1 filing for the office of trustee to be elected at the election held  
2 four years after the first election of trustees and each election  
3 thereafter shall designate whether he or she is a candidate for  
4 election by the resident owners of such district or whether he or  
5 she is a candidate for election by all of the owners of real estate  
6 located in the district. If a person filing for the office of  
7 trustee is a designated representative of a limited partnership,  
8 general partnership, limited liability company, public, private, or  
9 municipal corporation, estate, or irrevocable trust which owns real  
10 estate in the district, the name of such entity shall accompany the  
11 name of the candidate on the ballot in the following form: (Name  
12 of candidate) to represent (name of entity) as a member of the  
13 board. The name of each candidate shall appear on only one ballot.  
14 The name of a person may be written in and voted for as a  
15 candidate for the office of trustee, and such write-in candidate

16 may be elected to the office of trustee. A write-in candidate for  
17 the office of trustee who will serve as a designated representative  
18 of a limited partnership, general partnership, limited liability  
19 company, public, private, or municipal corporation, estate, or  
20 irrevocable trust which owns real estate in the district shall not  
21 be elected to the office of trustee unless (a) each vote is  
22 accompanied by the name of the entity which the candidate will  
23 represent and (b) within ten days after the date of the election  
24 the candidate provides the county clerk or election commissioner  
25 with appropriate documentation evidencing his or her representation  
26 of the entity. Votes cast which do not carry such accompanying  
27 designation shall not be counted.

1 A trustee shall be an owner of real estate located in the  
2 district or shall be a person designated to serve as a  
3 representative on the board of trustees if the real estate is owned  
4 by a limited partnership, general partnership, limited liability  
5 company, public, private, or municipal corporation, estate, or  
6 irrevocable trust. Notice of the date of the election shall be  
7 mailed by the clerk of the district not later than sixty-five days  
8 prior to the election to each person who is entitled to vote at the  
9 election for trustees whose property ownership or lease giving a  
10 right to vote is of record on the records of the register of deeds  
11 as of a date designated by the election commissioner or county  
12 clerk, which date shall be not more than seventy-five days prior to  
13 the election.

14 (2) For any sanitary and improvement district, persons  
15 whose ownership or right to vote becomes of record or is received  
16 after the date specified pursuant to subsection (1) of this section  
17 may vote when such person establishes their right to vote to the  
18 satisfaction of the election board. At the first election and at  
19 the election held two years after the first election, any person  
20 may cast one vote for each trustee for each acre of unplatted land  
21 or fraction thereof and one vote for each platted lot which he or  
22 she may own in the district. At the election held four years after  
23 the first election of trustees, two members of the board of  
24 trustees shall be elected by the legal property owners resident  
25 within such sanitary and improvement district and three members  
26 shall be elected by all of the owners of real estate located in the  
27 district pursuant to this section. Every resident property owner  
1 may cast one vote for a candidate for each office of trustee to be  
2 filled by election of resident property owners only. Such resident  
3 property owners may also each cast one vote for each acre of  
4 unplatted land or fraction thereof and for each platted lot owned  
5 within the district for a candidate for each office of trustee to  
6 be filled by election of all property owners. For each office of  
7 trustee to be filled by election of all property owners of the  
8 district, every legal property owner not resident within such  
9 sanitary and improvement district may cast one vote for each acre  
10 of unplatted land or fraction thereof and one vote for each platted

11 lot which he or she owns in the district. At the election held  
12 eight years after the first election of trustees and at each  
13 election thereafter, three members of the board of trustees shall  
14 be elected by the legal property owners resident within such  
15 sanitary and improvement district and two members shall be elected  
16 by all of the owners of real estate located in the district  
17 pursuant to this section, except that if more than fifty percent of  
18 the homes in any sanitary and improvement district are used as a  
19 second, seasonal, or recreational residence, the owners of such  
20 property shall be considered legal property owners resident within  
21 such district for purposes of electing trustees, and at the  
22 election held six years after the first election of trustees and at  
23 each election thereafter, three members of the board of trustees  
24 shall be elected by the legal property owners resident within such  
25 sanitary and improvement district and two members shall be elected  
26 by all of the owners of real estate located in the district  
27 pursuant to this section. If there are not any legal property  
1 owners resident within such district or if not less than ninety  
2 percent of the area of the district is owned for other than  
3 residential uses, the five members shall be elected by the legal  
4 property owners of all property within such district as provided in  
5 this section. Any public, private, or municipal corporation owning  
6 any land or lot in the district may vote at such election the same  
7 as an individual. For purposes of voting for trustees, each  
8 condominium apartment under a condominium property regime  
9 established prior to January 1, 1984, under the Condominium  
10 Property Act or established after January 1, 1984, under the  
11 Nebraska Condominium Act shall be deemed to be a platted lot and  
12 the lessee or the owner of the lessee's interest, under any lease  
13 for an initial term of not less than twenty years which requires  
14 the lessee to pay taxes and special assessments levied on the  
15 leased property, shall be deemed to be the owner of the property so  
16 leased and entitled to cast the vote of such property. When  
17 ownership of a platted lot or unplatted land is held jointly by two  
18 or more persons, whether as joint tenants, tenants in common,  
19 limited partners, members of a limited liability company, or any  
20 other form of joint ownership, only one person shall be entitled to  
21 cast the vote of such property. The executor, administrator,  
22 guardian, or trustee of any person or estate interested shall have  
23 the right to vote. No corporation, estate, or irrevocable trust  
24 shall be deemed to be a resident owner for purposes of voting for  
25 trustees. Should two or more persons or officials claim the right  
26 to vote on the same tract, the election board shall determine the  
27 party entitled to vote. Such board shall select one of their  
1 number chairperson and one of their number clerk. In case of a  
2 vacancy on such board, the remaining trustees shall fill the  
3 vacancy on such board until the next election.  
4 (3) The election commissioner or county clerk shall hold  
5 any election required by subsection (1) of this section by sealed

6 mail ballot by notifying the board of trustees on or before July 1  
7 of a given year. The election commissioner or county clerk shall,  
8 at least twenty days prior to the election, mail a ballot and  
9 return envelope to each person who is entitled to vote at the  
10 election and whose property ownership or lease giving a right to  
11 vote is of record with the register of deeds as of the date  
12 designated by the election commissioner or county clerk, which date  
13 shall not be more than seventy-five days prior to the election.  
14 The ballot and return envelope shall include: (a) The names and  
15 addresses of the candidates; (b) room for write-in candidates; and  
16 (c) instructions on how to vote and return the ballot. Such  
17 ballots shall be returned to the election commissioner or county  
18 clerk no later than 10 a.m. of the first Thursday following the  
19 election.

20 Sec. 2. Original section 31-735, Reissue Revised  
21 Statutes of Nebraska, is repealed.".

**LEGISLATIVE BILL 135.** Indefinitely postponed.

**LEGISLATIVE BILL 186.** Indefinitely postponed.

**LEGISLATIVE BILL 461.** Indefinitely postponed.

**LEGISLATIVE BILL 479.** Indefinitely postponed.

**LEGISLATIVE BILL 630.** Indefinitely postponed.

**LEGISLATIVE BILL 698.** Indefinitely postponed.

(Signed) Mike Friend, Chairperson

### **Agriculture**

**LEGISLATIVE BILL 440.** Placed on General File as amended.

Standing Committee amendment to LB 440:

AM0866

1 1. On page 2, line 19, strike "fifteen", show as

2 stricken, and insert "seven".

**LEGISLATIVE BILL 673.** Placed on General File as amended.

(Standing Committee amendment, AM0867, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 222.** Indefinitely postponed.

(Signed) Bob Kremer, Chairperson

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 529A.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to

aid in carrying out the provisions of Legislative Bill 529, Ninety-ninth Legislature, First Session, 2005.

### **SELECT COMMITTEE REPORTS**

#### **Enrollment and Review**

#### **Correctly Reengrossed**

The following bill was correctly reengrossed: LB 335.

ER9018

Enrollment and Review Change to LB 335  
(Final Reading copy)

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 23, line 16, "or her" has been inserted after "his".
2. On page 24, line 5, "act" has been struck and "section" inserted.
3. On page 29, line 21, "order or final" has been struck and "final order or" inserted.
4. On page 38, line 25, "act" has been struck and "Safety of Dams and Reservoirs Act" inserted.

(Signed) Michael Flood, Chairperson

### **BILLS ON FINAL READING**

The following bills were read and put upon final passage:

#### **LEGISLATIVE BILL 9.**

A BILL FOR AN ACT relating to county zoning; to amend section 23-174.03, Reissue Revised Statutes of Nebraska; to change provisions relating to subdivision plats; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Connealy	Howard	McDonald	Smith
Baker	Cornett	Hudkins	Mines	Stuhr
Beutler	Cudaback	Janssen	Pahls	Stuthman
Bourne	Cunningham	Jensen	Pedersen, Dw.	Synowiecki
Brashear	Engel	Johnson	Preister	Thompson
Brown	Erdman	Kremer	Price	Wehrbein
Burling	Fischer	Kruse	Raikes	
Byars	Flood	Landis	Redfield	
Chambers	Foley	Langemeier	Schimek	
Combs	Friend	Louden	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Pederson, D.

Excused and not voting, 2:

Heidemann    Kopplin

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

#### **LEGISLATIVE BILL 55.** With Emergency.

A BILL FOR AN ACT relating to the Commission for the Blind and Visually Impaired Act; to amend sections 71-8603 and 71-8612, Reissue Revised Statutes of Nebraska; to redefine a term; to change funding provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 46:

Aguilar	Cornett	Hudkins	Mines	Smith
Baker	Cudaback	Janssen	Pahls	Stuhr
Beutler	Cunningham	Jensen	Pedersen, Dw.	Stuthman
Bourne	Engel	Johnson	Pederson, D.	Synowiecki
Brashear	Erdman	Kremer	Preister	Thompson
Brown	Fischer	Kruse	Price	Wehrbein
Byars	Flood	Landis	Raikes	
Chambers	Foley	Langemeier	Redfield	
Combs	Friend	Louden	Schimek	
Connealy	Howard	McDonald	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Burling

Excused and not voting, 2:

Heidemann      Kopplin

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 78.**

A BILL FOR AN ACT relating to the Nebraska Railway Council; to amend section 74-1413, Reissue Revised Statutes of Nebraska; to provide for payment of per diems and expenses by the Department of Roads; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Cornett	Hudkins	Mines	Smith
Baker	Cudaback	Janssen	Pahls	Stuhr
Beutler	Cunningham	Jensen	Pedersen, Dw.	Stuthman
Brashear	Engel	Johnson	Pederson, D.	Synowiecki
Brown	Erdman	Kremer	Preister	Thompson
Burling	Fischer	Kruse	Price	Wehrbein
Byars	Flood	Landis	Raikes	
Chambers	Foley	Langemeier	Redfield	
Combs	Friend	Louden	Schimek	
Connealy	Howard	McDonald	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Bourne

Excused and not voting, 2:

Heidemann      Kopplin

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 97.**

A BILL FOR AN ACT relating to real property; to amend section 76-239, Reissue Revised Statutes of Nebraska; to change provisions relating to deeds of trust, mortgages, and real estate contracts; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Connealy	Howard	McDonald	Schrock
Baker	Cornett	Hudkins	Mines	Smith
Beutler	Cudaback	Janssen	Pahls	Stuhr
Bourne	Cunningham	Jensen	Pedersen, Dw.	Stuthman
Brashear	Engel	Johnson	Pederson, D.	Synowiecki
Brown	Erdman	Kremer	Preister	Thompson
Burling	Fischer	Kruse	Price	Wehrbein
Byars	Flood	Landis	Raikes	
Chambers	Foley	Langemeier	Redfield	
Combs	Friend	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 2:

Heidemann      Kopplin

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

## **LEGISLATIVE BILL 105.**

A BILL FOR AN ACT relating to courts; to amend sections 25-1629.01 and 25-1635, Reissue Revised Statutes of Nebraska; to change provisions relating to juror qualification forms; to provide powers and duties; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Connealy	Howard	McDonald	Schrock
Baker	Cornett	Hudkins	Mines	Smith
Beutler	Cudaback	Janssen	Pahls	Stuhr
Bourne	Cunningham	Jensen	Pedersen, Dw.	Stuthman
Brashear	Engel	Johnson	Pederson, D.	Synowiecki
Brown	Erdman	Kremer	Preister	Thompson
Burling	Fischer	Kruse	Price	Wehrbein
Byars	Flood	Landis	Raikes	
Chambers	Foley	Langemeier	Redfield	
Combs	Friend	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 2:

Heidemann    Kopplin

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 115.**

A BILL FOR AN ACT relating to law enforcement; to amend section 81-1403, Revised Statutes Supplement, 2004; to change revocation and suspension procedures for law enforcement certificates; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Connealy	Howard	McDonald	Schrock
Baker	Cornett	Hudkins	Mines	Smith
Beutler	Cudaback	Janssen	Pahls	Stuhr
Bourne	Cunningham	Jensen	Pedersen, Dw.	Stuthman
Brashear	Engel	Johnson	Pederson, D.	Synowiecki
Brown	Erdman	Kremer	Preister	Thompson
Burling	Fischer	Kruse	Price	Wehrbein
Byars	Flood	Landis	Raikes	
Chambers	Foley	Langemeier	Redfield	
Combs	Friend	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 2:

Heidemann    Kopplin

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 122.**

A BILL FOR AN ACT relating to the Boiler Inspection Act; to amend section 48-726, Reissue Revised Statutes of Nebraska; to provide an exemption for certain pressure vessels; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Connealy	Howard	McDonald	Schrock
Baker	Cornett	Hudkins	Mines	Smith
Beutler	Cudaback	Janssen	Pahls	Stuhr
Bourne	Cunningham	Jensen	Pedersen, Dw.	Stuthman
Brashear	Engel	Johnson	Pederson, D.	Synowiecki
Brown	Erdman	Kremer	Preister	Thompson
Burling	Fischer	Kruse	Price	Wehrbein
Byars	Flood	Landis	Raikes	
Chambers	Foley	Langemeier	Redfield	
Combs	Friend	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 2:

Heidemann      Kopplin

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 201. With Emergency.**

A BILL FOR AN ACT relating to the State Electrical Act; to amend section 81-2104, Revised Statutes Supplement, 2004; to adopt the 2005 National Electrical Code; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Aguilar	Connealy	Howard	McDonald	Schrock
Baker	Cornett	Hudkins	Mines	Smith
Beutler	Cudaback	Janssen	Pahls	Stuhr
Bourne	Cunningham	Jensen	Pedersen, Dw.	Stuthman
Brashear	Engel	Johnson	Pederson, D.	Synowiecki
Brown	Erdman	Kremer	Preister	Thompson
Burling	Fischer	Kruse	Price	Wehrbein
Byars	Flood	Landis	Raikes	
Chambers	Foley	Langemeier	Redfield	
Combs	Friend	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 2:

Heidemann      Kopplin

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

#### **LEGISLATIVE BILL 241.**

A BILL FOR AN ACT relating to government; to amend section 50-1302, Reissue Revised Statutes of Nebraska; to change provisions relating to review of boards and commissions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Cornett	Hudkins	Mines	Smith
Baker	Cudaback	Janssen	Pahls	Stuhr
Beutler	Cunningham	Jensen	Pedersen, Dw.	Stuthman
Bourne	Engel	Johnson	Pederson, D.	Synowiecki
Brashear	Erdman	Kremer	Preister	Thompson
Brown	Fischer	Kruse	Price	Wehrbein
Byars	Flood	Landis	Raikes	
Chambers	Foley	Langemeier	Redfield	
Combs	Friend	Louden	Schimek	
Connealy	Howard	McDonald	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Burling

Excused and not voting, 2:

Heidemann      Kopplin

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 247.**

A BILL FOR AN ACT relating to the Public Service Commission; to amend sections 75-133 and 75-134, Reissue Revised Statutes of Nebraska; to clarify jurisdiction relating to administrative revocations; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Connealy	Howard	McDonald	Smith
Baker	Cornett	Hudkins	Mines	Stuhr
Beutler	Cudaback	Janssen	Pahls	Stuthman
Bourne	Cunningham	Jensen	Pedersen, Dw.	Synowiecki
Brashear	Engel	Johnson	Pederson, D.	Thompson
Brown	Erdman	Kremer	Preister	Wehrbein
Burling	Fischer	Kruse	Raikes	
Byars	Flood	Landis	Redfield	
Chambers	Foley	Langemeier	Schimek	
Combs	Friend	Louden	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Price

Excused and not voting, 2:

Heidemann      Kopplin

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 259. With Emergency.**

A BILL FOR AN ACT relating to juvenile services; to create a work group; to provide duties; to provide a termination date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure

having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 46:

Aguilar	Cornett	Hudkins	Mines	Smith
Baker	Cudaback	Janssen	Pahls	Stuhr
Bourne	Cunningham	Jensen	Pedersen, Dw.	Stuthman
Brashear	Engel	Johnson	Pederson, D.	Synowiecki
Brown	Erdman	Kremer	Preister	Thompson
Burling	Fischer	Kruse	Price	Wehrbein
Byars	Flood	Landis	Raikes	
Chambers	Foley	Langemeier	Redfield	
Combs	Friend	Louden	Schimek	
Connealy	Howard	McDonald	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 2:

Heidemann    Kopplin

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LBs 9, 55, 78, 97, 105, 115, 122, 201, 241, 247, and 259.

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Flood asked unanimous consent to have his name added as cointroducer to LB 373. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 31 fourth-grade students, sponsors, and teachers from Louisville Public Schools; and 20 members of the Governor's Youth Advisory Council from across Nebraska.

**ADJOURNMENT**

At 12:01 p.m., on a motion by Senator Cudaback, the Legislature adjourned until 9:00 a.m., Tuesday, March 22, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**FORTY-EIGHTH DAY - MARCH 22, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**FORTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, March 22, 2005

**PRAYER**

The prayer was offered by Senator Smith.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Burling, Engel, Heidemann, Janssen, Landis, D. Pederson, Synowiecki, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-seventh day was approved.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on March 21, 2005, at 12:10 p.m. were the following: LBs 9, 55e, 78, 97, 105, 115, 122, 201e, 241, 247, and 259e.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**STANDING COMMITTEE REPORTS  
Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 214.** Placed on General File as amended.  
Standing Committee amendment to LB 214:  
AM0873

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. This act shall be known and may be cited as
- 4 the Nebraska Treasures Act.
- 5 Sec. 2. (1) The Legislature finds and declares:
- 6 (a) Tourism is a growing source of employment, income,

- 7 and tax revenue in this state, and the expansion of the tourism  
8 industry is vital to the growth of the state's economy;
- 9 (b) The tourism industry is important to the state, not  
10 only because of the number of people it serves and the human,  
11 financial, and physical resources it employs, but because of the  
12 benefits tourism and related activities confer on individuals and  
13 on society as a whole;
- 14 (c) Currently, promotion of tourism is funded primarily  
15 at the local level with lodging taxes. Investment of state  
16 resources in a limited number of tourism sites is needed to develop  
17 and protect resources and to provide a more effective means of  
18 marketing travel to, and within, the state by focusing on these  
19 attractions that have the greatest potential to benefit the state  
20 as a whole; and
- 21 (d) Coordination of existing state government involvement  
22 in tourism promotion at the state level and with local government  
23 and the private sector will maximize the economic and employment  
24 benefits of the tourism industry.
- 1 (2) Through the Nebraska Treasures Act the Legislature  
2 intends to encourage:
- 3 (a) A commitment to the fostering of the economic  
4 activity inherent in tourism promotion;
- 5 (b) Development of a means to promote and market the  
6 Nebraska Treasures as destinations for tourists on a nationwide  
7 basis;
- 8 (c) Tourism growth to assist the state in remaining  
9 competitive in the national tourism marketplace;
- 10 (d) Maximization of the contribution of the  
11 tourism-related industries to the state's economic prosperity and  
12 expansion of employment opportunities;
- 13 (e) Recognition of historic, natural, and scenic  
14 environments, and the development of cultural and heritage tourism  
15 programs and national marketing strategies, to enhance the state's  
16 appeal as a destination for domestic tourism;
- 17 (f) Provision of timely, up-to-date travel and tourism  
18 information on the Nebraska Treasures, to enable state residents to  
19 take maximum advantage of travel opportunities within the state;
- 20 (g) Health, education, and intercultural appreciation of  
21 the geography, natural resources, history, arts, and ethnicity of  
22 the state;
- 23 (h) The establishment of a plan to market the Nebraska  
24 Treasures to state residents and, more importantly, nonresidents;
- 25 (i) Public interest in protection of the natural  
26 resources and the cultural heritage of the state; and
- 27 (j) Recognition of state and locally managed recreational  
1 opportunities, including camping, hunting, fishing, boating,  
2 golfing, and other outdoor recreation experiences.
- 3 Sec. 3. The Travel and Tourism Division of the  
4 Department of Economic Development shall conduct a study to

5 identify the two to five existing or potential tourism sites in  
6 Nebraska that have the greatest potential to attract visitors from  
7 out of state. Beginning in 2010 and every five years thereafter,  
8 the division may conduct a study to identify additional existing or  
9 potential tourism sites in Nebraska that have the greatest  
10 potential to attract visitors from out of state. The selected  
11 sites, once approved by the Legislature, shall be known as the  
12 Nebraska Treasures. In conducting the study, the division shall,  
13 as a part of the study, form and use a geographically diverse  
14 advisory committee of at least eighteen Nebraska citizens,  
15 including representation from a cross-section of citizens engaged  
16 in the business of promoting Nebraska tourism. The division shall  
17 also hold public meetings in all three congressional districts  
18 which shall be structured to allow citizens from all portions of  
19 the state to come and advocate on behalf of specific tourist  
20 attractions or potential tourist attractions. The division shall  
21 give equal emphasis to out-of-state input with respect to national  
22 consumer attitudes and consumer preferences.

23 Sec. 4. After the Travel and Tourism Division of the  
24 Department of Economic Development has identified the tourism sites  
25 pursuant to section 3 of this act, the division shall submit a  
26 report to the Legislature. The report shall define the geographic  
27 area of each site and include a summary of the input and public  
1 comments received pursuant to such section. The report shall also  
2 outline the reasons why the division feels the designated sites  
3 will attract nonresidents if properly developed. A site shall not  
4 be designated as a Nebraska Treasure until it is approved by the  
5 Legislature.

6 Sec. 5. After approval of a Nebraska Treasure by the  
7 Legislature, the division shall form a local advisory committee  
8 from within the general geographic area of the attraction. Each  
9 local advisory committee shall consist of six to eight members  
10 appointed by a process set forth by the Legislature in designating  
11 a site as a Nebraska Treasure. Members shall represent a  
12 cross-section of the geographic area. Each local advisory  
13 committee shall meet at least quarterly after appointment and shall  
14 make short-term recommendations to the division for developing the  
15 Nebraska Treasure within four months after appointment. After  
16 receiving formal input of the local advisory committee, the  
17 division shall develop short-term and long-term plans for the  
18 development and promotion of the Nebraska Treasure. All plans and  
19 modification to the plans shall be reviewed and approved by the  
20 Governor before implementation. The local advisory committee may  
21 recommend specific expenditures and suggest modifications to the  
22 plan from time to time, and the plans may be reviewed and modified  
23 by the division from time to time. Members shall be reimbursed for  
24 actual and necessary expenses as provided in sections 81-1174 to  
25 81-1177.

26 Sec. 6. (1) The Legislature shall appropriate funds to

27 the Department of Economic Development for use under this section  
1 to identify, develop, and promote the Nebraska Treasures, which  
2 funds may be used for capital projects, for marketing and other  
3 programs, for the acquisition of land or other property rights  
4 except conservation easements, or for any other purpose reasonably  
5 designed to enhance the site or to improve access to the site or to  
6 make known the site. This section shall not be construed as  
7 granting the department the authority to exercise the power of  
8 eminent domain. Funds appropriated for use under this section  
9 shall not be used for ongoing operating costs at the various sites  
10 or for administrative costs of the division, other than such  
11 minimal administrative costs of the division as may be necessary to  
12 effectively administer the Nebraska Treasures Act.  
13 (2) The Nebraska Treasures Fund is created. Any money in  
14 the fund available for investment shall be invested by the state  
15 investment officer pursuant to the Nebraska Capital Expansion Act  
16 and the Nebraska State Funds Investment Act. One hundred fifty  
17 thousand dollars shall be appropriated to the fund for each of  
18 fiscal years 2005-06 and 2006-07. The funds shall be allocated  
19 among the Nebraska Treasures by the division in proportions that  
20 best meet the long-term goal of attracting the maximum number of  
21 nonresidents to the sites. The funds may also be reallocated among  
22 the Nebraska Treasures by the division to attain such long-term  
23 goal and to account for newly designed Nebraska Treasures."

(Signed) DiAnna R. Schimek, Chairperson

### **Transportation and Telecommunications**

**LEGISLATIVE BILL 221.** Placed on General File.

(Signed) Tom Baker, Chairperson

### **BILLS ON FINAL READING**

The following bills were read and put upon final passage:

#### **LEGISLATIVE BILL 291.**

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1340, Reissue Revised Statutes of Nebraska; to change provisions relating to state assumption of the county assessment function; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Aguilar	Cornett	Howard	McDonald	Schimek
Baker	Cudaback	Hudkins	Mines	Schrock
Beutler	Cunningham	Jensen	Pahls	Smith
Bourne	Erdman	Johnson	Pedersen, Dw.	Stuhr
Brashear	Fischer	Kopplin	Preister	Stuthman
Byars	Flood	Kremer	Price	Wehrbein
Combs	Foley	Kruse	Raikes	
Connealy	Friend	Langemeier	Redfield	

Voting in the negative, 0.

Present and not voting, 2:

Brown	Louden
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Excused and not voting, 9:

Burling	Engel	Janssen	Pederson, D.	Thompson
Chambers	Heidemann	Landis	Synowiecki	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 306.**

A BILL FOR AN ACT relating to the Uniform Licensing Law; to amend section 71-168, Reissue Revised Statutes of Nebraska, and section 71-101, Revised Statutes Supplement, 2004; to provide for fingerprinting and criminal background checks; to change requirements for reporting certain occurrences; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Aguilar	Cudaback	Jensen	Mines	Smith
Baker	Cunningham	Johnson	Pahls	Stuhr
Beutler	Erdman	Kopplin	Pedersen, Dw.	Stuthman
Bourne	Fischer	Kremer	Preister	Synowiecki
Brashear	Flood	Kruse	Price	Wehrbein
Byars	Foley	Landis	Raikes	
Combs	Friend	Langemeier	Redfield	
Connealy	Howard	Louden	Schimek	
Cornett	Hudkins	McDonald	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Brown

Excused and not voting, 7:

Burling	Engel	Janssen	Thompson
Chambers	Heidemann	Pederson, D.	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 306A.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 306, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 41:

Aguilar	Cudaback	Jensen	Mines	Smith
Baker	Cunningham	Johnson	Pahls	Stuhr
Beutler	Erdman	Kopplin	Pedersen, Dw.	Stuthman
Bourne	Fischer	Kremer	Preister	Synowiecki
Brashear	Flood	Kruse	Price	Wehrbein
Byars	Foley	Landis	Raikes	
Combs	Friend	Langemeier	Redfield	
Connealy	Howard	Louden	Schimek	
Cornett	Hudkins	McDonald	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Brown

Excused and not voting, 7:

Burling	Engel	Janssen	Thompson
Chambers	Heidemann	Pederson, D.	

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 319.** With Emergency.

A BILL FOR AN ACT relating to the Public Service Commission; to amend sections 71-4604.01, 71-4608, and 75-156, Reissue Revised Statutes of Nebraska; to change provisions relating to manufactured-home seals, recreational-vehicle plans and specifications, and civil penalties; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 42:

Aguilar	Cornett	Hudkins	McDonald	Schrock
Baker	Cudaback	Jensen	Mines	Smith
Beutler	Cunningham	Johnson	Pahls	Stuhr
Bourne	Erdman	Kopplin	Pedersen, Dw.	Stuthman
Brashear	Fischer	Kremer	Preister	Synowiecki
Brown	Flood	Kruse	Price	Wehrbein
Byars	Foley	Landis	Raikes	
Combs	Friend	Langemeier	Redfield	
Connealy	Howard	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 7:

Burling	Engel	Janssen	Thompson
Chambers	Heidemann	Pederson, D.	

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 320.**

A BILL FOR AN ACT relating to the Nebraska Correctional Health Care Services Act; to amend section 83-4,161, Revised Statutes Supplement, 2004; to change provisions relating to screening for communicable diseases; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 41:

Aguilar	Cudaback	Jensen	Mines	Smith
Baker	Cunningham	Johnson	Pahls	Stuhr
Bourne	Erdman	Kopplin	Pedersen, Dw.	Stuthman
Brashear	Fischer	Kremer	Preister	Synowiecki
Brown	Flood	Kruse	Price	Wehrbein
Byars	Foley	Landis	Raikes	
Combs	Friend	Langemeier	Redfield	
Connealy	Howard	Louden	Schimek	
Cornett	Hudkins	McDonald	Schrock	

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 7:

Burling	Engel	Janssen	Thompson
Chambers	Heidemann	Pederson, D.	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 331.**

A BILL FOR AN ACT relating to health care; to amend sections 71-2422, 71-2423, 71-2425, 71-2426, 71-2427, and 71-2429, Reissue Revised Statutes of Nebraska; to establish a registry for the cancer drug repository program; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Cudaback	Jensen	Mines	Schrock
Baker	Cunningham	Johnson	Pahls	Smith
Beutler	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Bourne	Fischer	Kremer	Pederson, D.	Stuthman
Brashear	Flood	Kruse	Preister	Synowiecki
Brown	Foley	Landis	Price	Wehrbein
Byars	Friend	Langemeier	Raikes	
Combs	Howard	Louden	Redfield	
Cornett	Hudkins	McDonald	Schimek	

Voting in the negative, 0.

Present and not voting, 1:

Connealy

Excused and not voting, 6:

Burling	Engel	Janssen
Chambers	Heidemann	Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 342.**

A BILL FOR AN ACT relating to natural resources; to amend section 2-1569, Reissue Revised Statutes of Nebraska, and section 2-1568, Revised Statutes Supplement, 2004; to eliminate a technical advisory committee; to harmonize provisions; to repeal the original sections; and to outright repeal section 2-1570, Revised Statutes Supplement, 2004.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Cornett	Jensen	Mines	Schrock
Baker	Cudaback	Johnson	Pahls	Smith
Beutler	Cunningham	Kopplin	Pedersen, Dw.	Stuhr
Bourne	Erdman	Kremer	Pederson, D.	Stuthman
Brashear	Fischer	Kruse	Preister	Synowiecki
Brown	Flood	Landis	Price	Wehrbein
Byars	Foley	Langemeier	Raikes	
Combs	Howard	Louden	Redfield	
Connealy	Hudkins	McDonald	Schimek	

Voting in the negative, 0.

Present and not voting, 1:

Friend

Excused and not voting, 6:

Burling	Engel	Janssen
Chambers	Heidemann	Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 380.**

A BILL FOR AN ACT relating to schools; to amend sections 79-586 and 79-589 to 79-592, Reissue Revised Statutes of Nebraska; to provide an alternative to bond for school district treasurers; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Cornett	Hudkins	McDonald	Schimek
Baker	Cudaback	Jensen	Mines	Schrock
Beutler	Cunningham	Johnson	Pahls	Smith
Bourne	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Brashear	Fischer	Kremer	Pederson, D.	Stuthman
Brown	Flood	Kruse	Preister	Synowiecki
Byars	Foley	Landis	Price	Wehrbein
Combs	Friend	Langemeier	Raikes	
Connealy	Howard	Louden	Redfield	

Voting in the negative, 0.

Excused and not voting, 6:

Burling	Engel	Janssen
Chambers	Heidemann	Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 396.**

A BILL FOR AN ACT relating to child support; to amend sections 42-358 and 42-358.02, Reissue Revised Statutes of Nebraska; to clarify a duty involving the reporting of delinquent child support; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Cornett	Hudkins	McDonald	Schimek
Baker	Cudaback	Jensen	Mines	Schrock
Beutler	Cunningham	Johnson	Pahls	Smith
Bourne	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Brashear	Fischer	Kremer	Pederson, D.	Stuthman
Brown	Flood	Kruse	Preister	Synowiecki
Byars	Foley	Landis	Price	Wehrbein
Combs	Friend	Langemeier	Raikes	
Connealy	Howard	Louden	Redfield	

Voting in the negative, 0.

Excused and not voting, 6:

Burling	Engel	Janssen
Chambers	Heidemann	Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

## **LEGISLATIVE BILL 402.**

A BILL FOR AN ACT relating to civil procedure; to amend section 25-1628, Revised Statutes Supplement, 2004; to modify provisions relating to the production of jury master lists; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Cornett	Hudkins	McDonald	Schimek
Baker	Cudaback	Jensen	Mines	Schrock
Beutler	Cunningham	Johnson	Pahls	Smith
Bourne	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Brashear	Fischer	Kremer	Pederson, D.	Stuthman
Brown	Flood	Kruse	Preister	Synowiecki
Byars	Foley	Landis	Price	Wehrbein
Combs	Friend	Langemeier	Raikes	
Connealy	Howard	Louden	Redfield	

Voting in the negative, 0.

Excused and not voting, 6:

Burling	Engel	Janssen
Chambers	Heidemann	Thompson

A constitutional majority having voted in the affirmative, the bill was

declared passed and the title agreed to.

**LEGISLATIVE BILL 406.** With Emergency.

A BILL FOR AN ACT relating to parking permits; to amend section 18-1740, Revised Statutes Supplement, 2004; to change the expiration date of parking permits issued to handicapped or disabled persons; to provide an operative date; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Aguilar	Cornett	Hudkins	McDonald	Schimek
Baker	Cudaback	Jensen	Mines	Schrock
Beutler	Cunningham	Johnson	Pahls	Smith
Bourne	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Brashear	Fischer	Kremer	Pederson, D.	Stuthman
Brown	Flood	Kruse	Preister	Synowiecki
Byars	Foley	Landis	Price	Wehrbein
Combs	Friend	Langemeier	Raikes	
Connealy	Howard	Louden	Redfield	

Voting in the negative, 0.

Excused and not voting, 6:

Burling	Engel	Janssen
Chambers	Heidemann	Thompson

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 450.**

A BILL FOR AN ACT relating to trade practices; to amend section 87-210, Reissue Revised Statutes of Nebraska; to change provisions for trade name registration; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Cudaback	Jensen	Mines	Schrock
Baker	Cunningham	Johnson	Pahls	Smith
Beutler	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Bourne	Fischer	Kremer	Pederson, D.	Stuthman
Brashear	Flood	Kruse	Preister	Synowiecki
Brown	Foley	Landis	Price	Wehrbein
Byars	Friend	Langemeier	Raikes	
Combs	Howard	Louden	Redfield	
Connealy	Hudkins	McDonald	Schimek	

Voting in the negative, 0.

Present and not voting, 1:

Cornett

Excused and not voting, 6:

Burling	Engel	Janssen
Chambers	Heidemann	Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 451.**

A BILL FOR AN ACT relating to secured transactions; to amend section 52-1312, Reissue Revised Statutes of Nebraska, and section 9-522, Uniform Commercial Code; to change provisions relating to the maintenance and destruction of records; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Cornett	Hudkins	McDonald	Schimek
Baker	Cudaback	Jensen	Mines	Schrock
Beutler	Cunningham	Johnson	Pahls	Smith
Bourne	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Brashear	Fischer	Kremer	Pederson, D.	Stuthman
Brown	Flood	Kruse	Preister	Synowiecki
Byars	Foley	Landis	Price	Wehrbein
Combs	Friend	Langemeier	Raikes	
Connealy	Howard	Louden	Redfield	

Voting in the negative, 0.

Excused and not voting, 6:

Burling	Engel	Janssen
Chambers	Heidemann	Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 453.**

A BILL FOR AN ACT relating to medical radiography; to amend section 71-3519, Reissue Revised Statutes of Nebraska; to create an advisory committee; to harmonize provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Aguilar	Connealy	Howard	Louden	Redfield
Baker	Cornett	Hudkins	McDonald	Schimek
Beutler	Cudaback	Jensen	Mines	Schrock
Bourne	Cunningham	Johnson	Pahls	Smith
Brashear	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Brown	Fischer	Kremer	Pederson, D.	Stuthman
Byars	Flood	Kruse	Preister	Synowiecki
Chambers	Foley	Landis	Price	Wehrbein
Combs	Friend	Langemeier	Raikes	

Voting in the negative, 0.

Excused and not voting, 5:

Burling	Engel	Heidemann	Janssen	Thompson
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 471.**

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,232, Reissue Revised Statutes of Nebraska; to permit a rotating or flashing amber light on a motor vehicle owned by or operated on behalf of a railroad as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Connealy	Hudkins	Mines	Schrock
Baker	Cornett	Johnson	Pahls	Smith
Beutler	Cudaback	Kopplin	Pedersen, Dw.	Stuhr
Bourne	Erdman	Kremer	Pederson, D.	Stuthman
Brashear	Fischer	Kruse	Preister	Synowiecki
Brown	Flood	Landis	Price	Wehrbein
Byars	Foley	Langemeier	Raikes	
Chambers	Friend	Louden	Redfield	
Combs	Howard	McDonald	Schimek	

Voting in the negative, 0.

Present and not voting, 2:

Cunningham    Jensen

Excused and not voting, 5:

Burling            Engel            Heidemann    Janssen            Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 475.**

A BILL FOR AN ACT relating to state government; to amend section 81-2701, Reissue Revised Statutes of Nebraska; to require a written notice under the State Government Effectiveness Act; to harmonize provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Aguilar	Connealy	Howard	Louden	Redfield
Baker	Cornett	Hudkins	McDonald	Schimek
Beutler	Cudaback	Jensen	Mines	Schrock
Bourne	Cunningham	Johnson	Pahls	Smith
Brashear	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Brown	Fischer	Kremer	Pederson, D.	Stuthman
Byars	Flood	Kruse	Preister	Synowiecki
Chambers	Foley	Landis	Price	Wehrbein
Combs	Friend	Langemeier	Raikes	

Voting in the negative, 0.

Excused and not voting, 5:

Burling            Engel            Heidemann            Janssen            Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 476.**

A BILL FOR AN ACT relating to unclaimed property; to amend section 69-1311, Reissue Revised Statutes of Nebraska; to change notice provisions for property presumed abandoned; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Aguilar	Connealy	Howard	Louden	Redfield
Baker	Cornett	Hudkins	McDonald	Schimek
Beutler	Cudaback	Jensen	Mines	Schrock
Bourne	Cunningham	Johnson	Pahls	Smith
Brashear	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Brown	Fischer	Kremer	Pederson, D.	Stuthman
Byars	Flood	Kruse	Preister	Synowiecki
Chambers	Foley	Landis	Price	Wehrbein
Combs	Friend	Langemeier	Raikes	

Voting in the negative, 0.

Excused and not voting, 5:

Burling            Engel            Heidemann            Janssen            Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **WITHDRAW - Amendment to LB 501**

Senator Preister withdrew his pending amendment, AM0854, found on page 923, to LB 501.

### **BILLS ON FINAL READING**

The following bills were read and put upon final passage:

### **LEGISLATIVE BILL 501.**

A BILL FOR AN ACT relating to public meetings; to amend section 84-1413, Reissue Revised Statutes of Nebraska; to change provisions

relating to the writing of minutes; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Cornett	Hudkins	McDonald	Schimek
Baker	Cudaback	Jensen	Mines	Schrock
Bourne	Cunningham	Johnson	Pahls	Smith
Brashear	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Brown	Fischer	Kremer	Pederson, D.	Stuthman
Byars	Flood	Kruse	Preister	Synowiecki
Chambers	Foley	Landis	Price	Wehrbein
Combs	Friend	Langemeier	Raikes	
Connealy	Howard	Louden	Redfield	

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 5:

Burling	Engel	Heidemann	Janssen	Thompson
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

## **LEGISLATIVE BILL 525.**

A BILL FOR AN ACT relating to public records; to amend section 84-1205.03, Reissue Revised Statutes of Nebraska; to change provisions relating to electronic access to public records; to provide duties; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Connealy	Hudkins	McDonald	Schrock
Baker	Cornett	Jensen	Mines	Smith
Beutler	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Bourne	Cunningham	Kopplin	Pederson, D.	Stuthman
Brashear	Erdman	Kremer	Preister	Synowiecki
Brown	Fischer	Kruse	Price	Wehrbein
Byars	Foley	Landis	Raikes	
Chambers	Friend	Langemeier	Redfield	
Combs	Howard	Louden	Schimek	

Voting in the negative, 0.

Present and not voting, 2:

Flood              Pahls

Excused and not voting, 5:

Burling              Engel              Heidemann              Janssen              Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 528.**

A BILL FOR AN ACT relating to municipalities; to amend sections 16-318 and 17-606, Reissue Revised Statutes of Nebraska; to change provisions relating to city and village treasurers; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Connealy	Howard	McDonald	Schimek
Baker	Cornett	Hudkins	Mines	Schrock
Beutler	Cudaback	Jensen	Pahls	Smith
Bourne	Cunningham	Kopplin	Pedersen, Dw.	Stuhr
Brashear	Erdman	Kremer	Pederson, D.	Stuthman
Brown	Fischer	Kruse	Preister	Synowiecki
Byars	Flood	Landis	Price	Wehrbein
Chambers	Foley	Langemeier	Raikes	
Combs	Friend	Louden	Redfield	

Voting in the negative, 0.

Excused and not voting, 6:

Burling	Heidemann	Johnson
Engel	Janssen	Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 534.**

A BILL FOR AN ACT relating to the Nebraska Mental Health Commitment Act; to amend section 71-906, Revised Statutes Supplement, 2004; to redefine a term; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Connealy	Howard	McDonald	Schimek
Baker	Cornett	Hudkins	Mines	Schrock
Beutler	Cudaback	Jensen	Pahls	Smith
Bourne	Cunningham	Kopplin	Pedersen, Dw.	Stuhr
Brashear	Erdman	Kremer	Pederson, D.	Stuthman
Brown	Fischer	Kruse	Preister	Synowiecki
Byars	Flood	Landis	Price	Wehrbein
Chambers	Foley	Langemeier	Raikes	
Combs	Friend	Louden	Redfield	

Voting in the negative, 0.

Excused and not voting, 6:

Burling	Heidemann	Johnson
Engel	Janssen	Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 544.**

A BILL FOR AN ACT relating to public officials; to eliminate a requirement that public officials not accept plans which are not in accordance with the Geologists Regulation Act; and to outright repeal section 81-3538, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Connealy	Howard	McDonald	Schimek
Baker	Cornett	Hudkins	Mines	Schrock
Beutler	Cudaback	Jensen	Pahls	Smith
Bourne	Cunningham	Kopplin	Pedersen, Dw.	Stuhr
Brashear	Erdman	Kremer	Pederson, D.	Stuthman
Brown	Fischer	Kruse	Preister	Synowiecki
Byars	Flood	Landis	Price	Wehrbein
Chambers	Foley	Langemeier	Raikes	
Combs	Friend	Louden	Redfield	

Voting in the negative, 0.

Excused and not voting, 6:

Burling	Heidemann	Johnson
Engel	Janssen	Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 626.**

A BILL FOR AN ACT relating to municipalities; to amend sections 14-3,100, 17-501, and 17-952, Reissue Revised Statutes of Nebraska, and section 16-696, Revised Statutes Supplement, 2004; to change eligibility criteria for certain committees and boards; to eliminate certain references to freeholders; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Connealy	Howard	McDonald	Schimek
Baker	Cornett	Hudkins	Mines	Schrock
Beutler	Cudaback	Jensen	Pahls	Smith
Bourne	Cunningham	Kopplin	Pedersen, Dw.	Stuhr
Brashear	Erdman	Kremer	Pederson, D.	Stuthman
Brown	Fischer	Kruse	Preister	Wehrbein
Byars	Flood	Landis	Price	
Chambers	Foley	Langemeier	Raikes	
Combs	Friend	Louden	Redfield	

Voting in the negative, 0.

Present and not voting, 1:

Synowiecki

Excused and not voting, 6:

Burling	Heidemann	Johnson
Engel	Janssen	Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 639.**

A BILL FOR AN ACT relating to highways and roads; to amend sections 39-1302 and 39-1311, Reissue Revised Statutes of Nebraska; to include proposed beltways on the corridor location map; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Conneally	Howard	McDonald	Schimek
Baker	Cornett	Hudkins	Mines	Schrock
Beutler	Cudaback	Jensen	Pahls	Smith
Bourne	Cunningham	Kopplin	Pedersen, Dw.	Stuhr
Brashear	Erdman	Kremer	Pederson, D.	Stuthman
Brown	Fischer	Kruse	Preister	Synowiecki
Byars	Flood	Landis	Price	Wehrbein
Chambers	Foley	Langemeier	Raikes	
Combs	Friend	Louden	Redfield	

Voting in the negative, 0.

Excused and not voting, 6:

Burling	Heidemann	Johnson
Engel	Janssen	Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 640.**

A BILL FOR AN ACT relating to abstracters; to amend section 76-547, Reissue Revised Statutes of Nebraska; to change registration requirements as prescribed; to harmonize provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Connealy	Howard	McDonald	Schimek
Baker	Cornett	Hudkins	Mines	Schrock
Beutler	Cudaback	Jensen	Pahls	Smith
Bourne	Cunningham	Kopplin	Pedersen, Dw.	Stuhr
Brashear	Erdman	Kremer	Pederson, D.	Stuthman
Brown	Fischer	Kruse	Preister	Synowiecki
Byars	Flood	Landis	Price	Wehrbein
Chambers	Foley	Langemeier	Raikes	
Combs	Friend	Louden	Redfield	

Voting in the negative, 0.

Excused and not voting, 6:

Burling	Heidemann	Johnson
Engel	Janssen	Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

#### **LEGISLATIVE BILL 676.** With Emergency.

A BILL FOR AN ACT relating to real property; to amend section 76-2221, Reissue Revised Statutes of Nebraska; to exempt certain persons from the Real Estate Appraiser Act; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Aguilar	Connealy	Howard	McDonald	Schimek
Baker	Cornett	Hudkins	Mines	Schrock
Beutler	Cudaback	Jensen	Pahls	Smith
Bourne	Cunningham	Kopplin	Pedersen, Dw.	Stuhr
Brashear	Erdman	Kremer	Pederson, D.	Stuthman
Brown	Fischer	Kruse	Preister	Synowiecki
Byars	Flood	Landis	Price	Wehrbein
Chambers	Foley	Langemeier	Raikes	
Combs	Friend	Louden	Redfield	

Voting in the negative, 0.

Excused and not voting, 6:

Burling	Heidemann	Johnson
Engel	Janssen	Thompson

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 754.**

A BILL FOR AN ACT relating to the Commission on Judicial Qualifications; to amend section 24-719, Reissue Revised Statutes of Nebraska, and section 24-721, Revised Statutes Supplement, 2004; to require an annual report; to change provisions relating to judicial reprimands; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Aguilar	Connealy	Heidemann	Louden	Redfield
Baker	Cornett	Howard	McDonald	Schimek
Beutler	Cudaback	Hudkins	Mines	Schrock
Bourne	Cunningham	Jensen	Pahls	Smith
Brashear	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Brown	Fischer	Kremer	Pederson, D.	Stuthman
Byars	Flood	Kruse	Preister	Synowiecki
Chambers	Foley	Landis	Price	Wehrbein
Combs	Friend	Langemeier	Raikes	

Voting in the negative, 0.

Excused and not voting, 5:

Burling	Engel	Janssen	Johnson	Thompson
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 762.**

A BILL FOR AN ACT relating to county government; to amend section 77-1501, Reissue Revised Statutes of Nebraska, and section 23-1302, Revised Statutes Supplement, 2004; to provide for appointments by the county clerk as prescribed; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Aguilar	Connealy	Heidemann	Louden	Redfield
Baker	Cornett	Howard	McDonald	Schimek
Beutler	Cudaback	Hudkins	Mines	Schrock
Bourne	Cunningham	Jensen	Pahls	Smith
Brashear	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Brown	Fischer	Kremer	Pederson, D.	Stuthman
Byars	Flood	Kruse	Preister	Synowiecki
Chambers	Foley	Landis	Price	Wehrbein
Combs	Friend	Langemeier	Raikes	

Voting in the negative, 0.

Excused and not voting, 5:

Burling	Engel	Janssen	Johnson	Thompson
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

## **SPEAKER BRASHEAR PRESIDING**

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 291, 306, 306A, 319, 320, 331, 342, 380, 396, 402, 406, 450, 451, 453, 471, 475, 476, 501, 525, 528, 534, 544, 626, 639, 640, 676, 754, and 762.

### **AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 268:  
AM0860

- 1 1. Insert the following new section:
- 2 "Sec. 3. Section 35-1320, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 35-1320. (1) Any city, village, or rural or suburban
- 5 fire protection district conducting a service award benefit program
- 6 shall, within thirty days after the adoption of a program, provide
- 7 all volunteers providing its local political subdivision with
- 8 emergency response services with a summary of the program's
- 9 provisions, including the program's provisions relating to
- 10 participation and the applicable standard criteria for qualified
- 11 active service, the manner in which nonforfeitable interests in
- 12 annual accounts are obtained, the amount of all contributions to
- 13 the annual account, and any other information relating to
- 14 participation in the program. The city, village, or rural or
- 15 suburban fire protection district shall provide copies of the
- 16 summary to all new volunteer members and to any applicant for

17 membership to the volunteer department.

18 (2) Any summary of a program's provisions provided  
 19 pursuant to this section shall include the following statement and  
 20 such additional explanation as is deemed appropriate by the  
 21 sponsoring city, village, or rural or suburban fire protection  
 22 district: Due to definitive interpretations of the relevant  
 23 provisions of the Internal Revenue Code, in order to insure that  
 24 funds deposited on behalf of a participant are not taxable to the  
 1 participant in that or any subsequent year in which they are  
 2 nonforfeitable, any funds held by a city, village, or rural or  
 3 suburban fire protection district on behalf of qualifying program  
 4 participants will be subject to the claims of creditors of the  
 5 city, village, or rural or suburban fire protection district  
 6 conducting the program in the event of the insolvency or bankruptcy  
 7 of that city, village, or district.

8 (3) Any material modification to the program shall be  
 9 provided in writing to all participants within thirty days after  
 10 its adoption by the city, village, or rural or suburban fire  
 11 protection district.

12 (4) No later than December 1 of each year following the  
 13 end of the first full year of service after the adoption of a  
 14 service award benefit program, the city, village, or rural or  
 15 suburban fire protection district shall provide to each participant  
 16 listed in the certification list for that year of service a summary  
 17 and copy of the relevant documents relating to the contributions to  
 18 the annual account for such year of service. By December 1 of each  
 19 subsequent year, the city, village, or rural or suburban fire  
 20 protection district shall provide each participant who appears for  
 21 the first time in the certification list for the immediately  
 22 preceding year of service with the same information.

23 (5) All documents relating to any program, the  
 24 certification lists, the annual accounts, the investment of the  
 25 funds of the annual accounts, the contributions to the account and  
 26 the income derived therefrom, and the identity of the administrator  
 27 of the annual accounts shall be public records within the meaning  
 1 of section 84-712.01."

2 2. On page 7, line 1, after the second comma insert  
 3 "35-1320,".

4 3. Renumber the remaining sections accordingly.

Senator Beutler filed the following amendment to LB 516:  
 AM0874

1 1. On page 2, line 11, strike beginning with the first  
 2 "for" through "or".

## RESOLUTION

**LEGISLATIVE RESOLUTION 62.** Introduced by Stuhr, 24.

WHEREAS, the Concordia Bulldogs were runner-up in the NAIA Division II Men's Basketball Tournament; and

WHEREAS, the Concordia Bulldogs compiled a season record of thirty-two wins and six losses; and

WHEREAS, thirty-two wins is a school record; and

WHEREAS, the Concordia Bulldogs' trip to the NAIA Division II Men's Basketball championship game represented the Bulldogs eighth national tournament appearance and first trip to the championship game; and

WHEREAS, throughout the year the Concordia Bulldogs have complemented their talents with characteristics of sportsmanship, determination, teamwork, and diligence; and

WHEREAS, such a team achievement is made possible not only by individual members' performance and coaching guidance, but also through the support of professors, administrators, parents, and fans.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes and congratulates players Garrett Rathke, Scott Beck, Steve Carretto, Alex Michel, Eric Brown, Wes Gehring, Thad Sankey, Jon Ziegler, David Anderson, Jason Jisa, Benjamin Buhr, Marcus Wernke, and Reggie Corbin and coaches Grant Schmidt and Marty Kohlwey for their achievement.

2. That a copy of this resolution be sent to Grant Schmidt, head coach of the Concordia men's basketball team, and Brian L. Friedrich, President of Concordia University.

Laid over.

## SENATOR CUDABACK PRESIDING

### GENERAL FILE

**LEGISLATIVE BILL 739.** The first Standing Committee amendment, FA109, found on page 909, was renewed.

The Chambers pending amendment, FA108, found on page 909, to the first Standing Committee amendment, was renewed.

Senator Chambers moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 10:

Beutler	Conneally	Howard	Louden	Schimek
Chambers	Cudaback	Landis	Preister	Synowiecki

Voting in the negative, 23:

Baker	Erdman	Hudkins	Mines	Stuhr
Brashear	Fischer	Jensen	Pedersen, Dw.	Stuthman
Burling	Flood	Kopplin	Raikes	Wehrbein
Byars	Friend	Kremer	Schrock	
Cunningham	Heidemann	Langemeier	Smith	

Present and not voting, 11:

Aguilar	Combs	Kruse	Price
Bourne	Cornett	McDonald	Redfield
Brown	Johnson	Pahls	

Excused and not voting, 5:

Engel	Foley	Janssen	Pederson, D.	Thompson
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The Chambers amendment lost with 10 ayes, 23 nays, 11 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, FA113, found on page 910, to the first Standing Committee amendment.

Pending.

### SELECT COMMITTEE REPORTS Enrollment and Review

**LEGISLATIVE BILL 121.** Placed on Select File as amended.

E & R amendment to LB 121:

AM7066

- 1 1. On page 1, line 1, strike "permits and licenses" and
- 2 insert "the Game Law"; and in line 4 strike "licenses" and insert
- 3 "permits".

**LEGISLATIVE BILL 234.** Placed on Select File as amended.

E & R amendment to LB 234:

AM7063

- 1 1. In the Standing Committee amendments, AM0134, on page
- 2 2, line 6 strike "sections" and insert "section".

**LEGISLATIVE BILL 516.** Placed on Select File.

**LEGISLATIVE BILL 485.** Placed on Select File.

**LEGISLATIVE BILL 492.** Placed on Select File as amended.

E & R amendment to LB 492:

AM7064

- 1 1. On page 1, line 4, strike "and provide"; and in line

2 5 after the first semicolon insert "to provide for designation of  
3 grain in storage and liens as prescribed; to require written notice  
4 of certain proceedings;"

5 2. On page 3, line 10, strike "section 2 of this act"  
6 and insert "this section".

**LEGISLATIVE BILL 39.** Placed on Select File.

**LEGISLATIVE BILL 352.** Placed on Select File.

**LEGISLATIVE BILL 299.** Placed on Select File.

**LEGISLATIVE BILL 144.** Placed on Select File.

**LEGISLATIVE BILL 684.** Placed on Select File.

**LEGISLATIVE BILL 684A.** Placed on Select File.

**LEGISLATIVE BILL 668.** Placed on Select File.

**LEGISLATIVE BILL 131.** Placed on Select File as amended.

E & R amendment to LB 131:

AM7065

1 1. On page 1, strike beginning with the semicolon in  
2 line 2 through line 3 and insert ", and sections 81-2,239 and  
3 81-2,240, Revised Statutes Supplement, 2004; to define and redefine  
4 terms; to harmonize provisions; and to repeal the original  
5 sections."

(Signed) Michael Flood, Chairperson

### **PRESENTED TO THE GOVERNOR**

Presented to the Governor on March 22, 2005, at 10:45 a.m. were the following: LBs 291, 306, 306Ae, 319e, 320, 331, 342, 380, 396, 402, 406e, 450, 451, 453, 471, 475, 476, 501, 525, 528, 534, 544, 626, 639, 640, 676e, 754, and 762.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 690A.** Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 690, Ninety-ninth Legislature, First Session, 2005.

### **AMENDMENT - Print in Journal**

Senators Beutler and Kremer filed the following amendment to LB 150:  
AM0817

- 1 1. On page 2, strike beginning with "Nebraska" in line  
2 18 through "(7)" in line 22.
- 3 2. On page 3, line 1, strike "(8)" and insert "(7)"; and  
4 after line 7 insert  
5 "(8) Qualified entity means a beef promotion entity  
6 organized and operating within Nebraska formed exclusively for the  
7 purpose of conducting beef promotion, research, and consumer and  
8 industry information to strengthen the beef industry's position in  
9 the marketplace and to maintain, develop, and expand markets for  
10 beef and beef products and is designated by the director pursuant  
11 to section 5 of this act;".
- 12 3. On page 6, strike beginning with "The" in line 11  
13 through line 20 and insert "The director may designate and contract  
14 with a qualified entity to develop, implement, and direct the beef  
15 industry development program authorized by, and consistent with,  
16 the purposes of the Nebraska Beef Industry Development Act. The  
17 contract shall be for a term of five years. Any contract entered  
18 into with a qualified entity for such purposes shall provide for  
19 the faithful performance of the director's duties under sections 4  
20 and 7 to 11 of this act and shall provide that the qualified entity  
21 shall:".
- 22 4. On page 7, line 3, strike "9" and insert "11"; in  
23 line 5 strike "a" and insert "an independent"; in line 16 strike  
24 "and"; and in line 17 after "(7)" insert "Include in its bylaws  
1 provisions which are substantially equivalent to the Open Meetings  
2 Act as determined and approved by the director;  
3 (8) Cooperate with the director in submitting to  
4 performance audits of the beef development program authorized by  
5 the act conducted by the state; and  
6 (9)".
- 7 5. On page 11, lines 23 and 24, strike "Nebraska beef  
8 council" and insert "qualified entity".
- 9 6. On page 12, lines 9 and 14, strike "Nebraska beef  
10 council" and insert "qualified entity"; in line 16 strike "shall  
11 cooperate" and insert "may only carry out any research activities  
12 or programs consistent with the purposes of the act in  
13 cooperation"; and strike beginning with the last comma in line 19  
14 through "act" in line 20.

## VISITORS

Visitors to the Chamber were Dr. Donald Palmisano from New Orleans, Louisiana, Ken Powers from Chicago, Illinois, Krynn Buckley and Carole Bates from Lincoln; Kristina Mueller and Dr. Ron Klutman from Columbus, and Candace Huebert from Lincoln; 5 sixth-grade students and teacher from St. Paul's School, Utica; 50 fourth-grade students and teachers from York; Tim Kolb from Franklin; 94 fourth-grade students and teacher from Gomez Heritage School, Omaha; and Rich, Linda, Brittany, and Ashton Hovenidick from Beatrice and Jacques, Thea, and Aster Brouwer from Holland.

**RECESS**

At 11:59 a.m., on a motion by Senator Hudkins, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senator Kopplin who was excused; and Senators Combs, Engel, Heidemann, Kremer, Preister, and Thompson who were excused until they arrive.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 63.** Introduced by Cudaback, 36.

WHEREAS, the Ravenna High School boys' basketball team won the Class C-2 Boys' State High School Basketball Championship with a victory over Wakefield; and

WHEREAS, the Bluejays had twenty-seven wins and no losses for a perfect 2004-05 season; and

WHEREAS, the team is also active in the Ravenna community by helping out with the "Meals on Wheels" program at the senior center; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Ravenna High School boys' basketball team be congratulated for their exemplary effort this season and in the Boys' State High School Basketball Tournament.

2. That a copy of this resolution be sent to Coach Paul Beranek and Ravenna High School.

Laid over.

**LEGISLATIVE RESOLUTION 64.** Introduced by Cudaback, 36.

WHEREAS, the Pleasanton High School boys' basketball team won the Class D-1 Boys' State High School Basketball Championship with a seventy to forty-eight win over Humphrey St. Francis; and

WHEREAS, the team won twenty-three of twenty-six games played this season; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Pleasanton High School boys' basketball team be congratulated for winning the state basketball tournament.

2. That a copy of this resolution be sent to Coach Randy Bauer and Pleasanton High School.

Laid over.

## GENERAL FILE

**LEGISLATIVE BILL 739.** The Chambers pending amendment, FA113, found on page 910 and considered in this day's Journal, to the first Standing Committee amendment, was renewed.

Senator Chambers withdrew his amendment.

Senator Chambers renewed his pending amendment, FA114, found on page 910, to the first Standing Committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 5:

Aguilar	Landis	Pedersen, Dw.	Preister	Synowiecki
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Voting in the negative, 9:

Cunningham	Friend	Hudkins	Redfield	Wehrbein
Foley	Howard	Louden	Schimek	

Present and not voting, 30:

Baker	Byars	Fischer	Kruse	Raikes
Beutler	Chambers	Flood	Langemeier	Schrock
Bourne	Conneally	Heidemann	McDonald	Smith
Brashear	Cornett	Janssen	Pahls	Stuhr
Brown	Cudaback	Jensen	Pederson, D.	Stuthman
Burling	Erdman	Johnson	Price	Thompson

Excused and not voting, 5:

Combs	Engel	Kopplin	Kremer	Mines
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The Chambers amendment lost with 5 ayes, 9 nays, 30 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:  
Reconsider the vote on FA114.

Senator Chambers moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Senator Chambers requested a roll call vote, in reverse order, on his motion to reconsider.

Voting in the affirmative, 4:

Aguilar	Chambers	Preister	Synowiecki
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Voting in the negative, 27:

Baker	Engel	Heidemann	Langemeier	Stuhr
Bourne	Erdman	Howard	Louden	Thompson
Brown	Fischer	Hudkins	McDonald	Wehrbein
Byars	Flood	Janssen	Mines	
Connealy	Foley	Kremer	Redfield	
Cunningham	Friend	Kruse	Smith	

Present and not voting, 13:

Beutler	Cornett	Johnson	Raikes	Stuthman
Brashear	Cudaback	Pederson, D.	Schimek	
Burling	Jensen	Price	Schrock	

Excused and not voting, 5:

Combs	Kopplin	Landis	Pahls	Pedersen, Dw.
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The Chambers motion to reconsider failed with 4 ayes, 27 nays, 13 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

## STANDING COMMITTEE REPORTS

### Natural Resources

**LEGISLATIVE BILL 601.** Placed on General File as amended.  
Standing Committee amendment to LB 601:  
AM0454

1 1. Strike the original sections and insert the following

2 sections:

3 "Section 1. Section 13-2001, Revised Statutes

4 Supplement, 2004, is amended to read:

5 13-2001. Sections 13-2001 to 13-2043 and section 2 of  
6 this act shall be known and may be cited as the Integrated Solid  
7 Waste Management Act.

8 Sec. 2. (1) For purposes of this section, elected

9 official means a mayor or a member of a city council, village board  
10 of trustees, or county board.

11 (2) Beginning January 1, 2007, a joint entity or joint  
12 public agency created pursuant to the Interlocal Cooperation Act or  
13 the Joint Public Agency Act that provides services under the  
14 Integrated Solid Waste Management Act shall not place a lien on  
15 property for nonpayment of debt unless the agreement creating the  
16 joint entity or joint public agency provides or is modified to  
17 provide for a governing board that consists of elected officials.

18 Sec. 3. Original section 13-2001, Revised Statutes  
19 Supplement, 2004, is repealed.".

(Signed) Ed Schrock, Chairperson

### Revenue

**LEGISLATIVE BILL 478.** Placed on General File as amended.  
Standing Committee amendment to LB 478:  
AM0863

1 1. On page 8, strike lines 13 through 22 and insert "the  
2 amount of income received as a military retirement benefit  
3 resulting from service in the armed forces of the United States  
4 equal to one-half the amount of income earned as wages and salaries  
5 paid in Nebraska by an employer performing security classified work  
6 for the federal Department of Defense and qualified under 32 C.F.R.  
7 155.1 through 155.6, to the extent that such wages and salaries  
8 exceed forty thousand dollars during the tax year. In order to  
9 receive the exclusion provided in this subsection, the taxpayer  
10 shall submit a certification that the employer has received  
11 authorization to perform classified work for the federal Department  
12 of Defense that is signed by the employer's facility security  
13 officer.".

(Signed) David Landis, Chairperson

### AMENDMENTS - Print in Journal

Senator Schrock filed the following amendment to LB 351:  
AM0885

(Amendments to Standing Committee amendments, AM0794)

1 1. Insert the following new amendment:

2 "1. On page 3, line 6, strike 'eighteen' and insert

3 'seventeen'.

4 2. On page 1, line 4, after the semicolon insert "in

5 line 16 strike 'or low-income persons;'."

6 3. Renumber the remaining amendment accordingly.

Senator Friend filed the following amendment to LB 361:  
AM0903

(Amendments to Standing Committee amendments, AM0523)

1 1. On page 12, line 2, after "cause" insert " , a court

2 order, or voluntary consent as described in subsection (2) of this

3 section".

Senator Brown filed the following amendment to LB 242:  
AM0840

(Amendments to Final Reading copy)

1 1. Strike original section 42 and insert the following

2 new section:

3 "Sec. 42. Section 49-1499.03, Reissue Revised Statutes

4 of Nebraska, is amended to read:

5 49-1499.03. (1)(a) An official of a political

6 subdivision designated in section 49-1493 ~~and a member of any~~

7 ~~school board~~ who would be required to take any action or make any

8 decision in the discharge of his or her official duties that may

9 cause financial benefit or detriment to him or her, a member of his

10 or her immediate family, or a business with which he or she is

11 associated, which is distinguishable from the effects of such

12 action on the public generally or a broad segment of the public,

13 shall take the following actions as soon as he or she is aware of

14 such potential conflict or should reasonably be aware of such

15 potential conflict, whichever is sooner:

16 ~~(a)~~ (i) Prepare a written statement describing the matter

17 requiring action or decision and the nature of the potential

18 conflict; and

19 ~~(b)~~ (ii) Deliver a copy of the statement to the

20 commission and to the person in charge of keeping records for the

21 political subdivision who shall enter the statement onto the public

22 records of the subdivision.

23 (b) The official shall take such action as the commission

1 shall advise or prescribe to remove himself or herself from

2 influence over the action or decision on the matter.

3 ~~(2) This section~~ (c) This subsection does not prevent

4 such a person from making or participating in the making of a

5 governmental decision to the extent that the individual's

6 participation is legally required for the action or decision to be

7 made. A person acting pursuant to this ~~subsection~~ subdivision

8 shall report the occurrence to the commission.

9 (2)(a) Any person holding an elective office of a city or

10 village not designated in section 49-1493 and any person holding an

11 elective office of a school district who would be required to take

12 any action or make any decision in the discharge of his or her  
 13 official duties that may cause financial benefit or detriment to  
 14 him or her, a member of his or her immediate family, or a business  
 15 with which he or she is associated, which is distinguishable from  
 16 the effects of such action on the public generally or a broad  
 17 segment of the public, shall take the following actions as soon as  
 18 he or she is aware of such potential conflict or should reasonably  
 19 be aware of such potential conflict, whichever is sooner:  
 20 (i) Prepare a written statement describing the matter  
 21 requiring action or decision and the nature of the potential  
 22 conflict;  
 23 (ii) Deliver a copy of the statement to the person in  
 24 charge of keeping records for the city, village, or school district  
 25 who shall enter the statement onto the public records of the city,  
 26 village, or school district; and  
 27 (iii) Abstain from participating or voting on the matter  
 1 in which the person holding elective office has a conflict of  
 2 interest.  
 3 (b) The person holding elective office may apply to the  
 4 commission for an opinion as to whether the person has a conflict  
 5 of interest.  
 6 (3) ~~Either sections 49-14,102 and 49-14,103 or sections~~  
 7 ~~49-14,103.01 to 49-14,103.06 apply to interests in contracts by~~  
 8 ~~officials of a political subdivision~~ Matters involving an interest  
 9 in a contract are governed either by sections 49-14,102 and  
 10 49-14,103 or by sections 49-14,103.01 to 49-14,103.06. Matters  
 11 involving the hiring of an immediate family member are governed by  
 12 section 49-1499.01 or 49-1499.04."

### EXPLANATION OF VOTES

Had I been present, I would have voted "aye" on final passage of LBs 291, 306, 306Ae, 319e, 320, 331, 342, 380, 396, 402, 406e, 450, 451, 453, 471, 475, 476, 501, 525, 528, 534, 544, 626, 639, 640, 676e, 754, and 762.

(Signed) L. Patrick Engel

### AMENDMENT - Print in Journal

Senator Baker filed the following amendment to LB 82:  
 AM0902

(Amendments to Standing Committee amendments, AM0666)

- 1 1. Insert the following new sections:
- 2 2. "Sec. 3. Section 60-6,297, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 60-6,297. The provisions of subdivision (1)(b) of
- 5 section 60-6,290 and subsections (2) and (3) of section 60-6,294
- 6 shall not apply when a disabled combination of vehicles is towed if
- 7 the combination of vehicles, together with the wrecker or tow

8 truck, does not exceed one hundred ~~thirty~~ fifty feet, inclusive of  
9 front and rear bumpers including load. Such exception shall apply  
10 only if the disabled combination of vehicles is being towed  
11 directly to the nearest place of secure safekeeping. The towing  
12 vehicle shall be connected with the air brakes and brake lights of  
13 the towed vehicle. For purposes of this section, place of secure  
14 safekeeping means a place off the traveled portion of the highway  
15 that can accommodate the parking of such vehicles in order for the  
16 vehicles to be (1) repaired or (2) dismantled and operated in  
17 compliance with subdivision (1)(b) of section 60-6,290 and  
18 subsections (2) and (3) of section 60-6,294.

19 Sec. 5. Section 60-2404, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 60-2404. A motor vehicle towed away under sections  
22 60-2401 to 60-2411, which is not claimed by the owner within ~~one~~  
23 ~~hundred eighty~~ ninety days after towing, is subject to ~~liens~~ lien  
1 and disposition under Chapter 52, article 6, by the person who  
2 towed the vehicle, under Chapter 52, article 6.

3 Sec. 6. Section 60-2410, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 60-2410. (1) The owner or other person lawfully entitled  
6 to the possession of any vehicle towed or stored shall be charged  
7 with the reasonable cost of towing and storage fees. Any such  
8 towing or storage fee shall be a lien upon the vehicle under  
9 Chapter 52, article 6, and, except as provided in subsection (3) of  
10 this section, shall be prior to all other claims. Any person  
11 towing or storing a vehicle shall be entitled to may retain  
12 possession of such vehicle until such charges are paid or, after  
13 ninety days, may dispose of such vehicle to satisfy the lien. The  
14 lien provided for in this section shall not apply to the contents  
15 of any vehicle.

16 (2) The person towing the motor vehicle shall, within  
17 thirty days after towing, notify any lienholder appearing on the  
18 certificate of title of the motor vehicle and the owner of the  
19 motor vehicle of the towing of the motor vehicle. The notice shall  
20 be sent by certified mail, return receipt requested, to the  
21 last-known address of the lienholder and owner of the motor  
22 vehicle. The notice shall contain:

23 (a) The make, model, color, year, and vehicle  
24 identification number of the motor vehicle;

25 (b) The name, address, and telephone number of the person  
26 who towed the motor vehicle;

27 (c) The date of towing;

1 (d) The daily storage fee and the storage fee accrued as  
2 of the date of the notification; and

3 (e) A statement that the motor vehicle is subject to lien  
4 and disposition under Chapter 52, article 6.

5 (3) Failure to provide notice as prescribed in subsection  
6 (2) of this section shall result in the lien of the person who

7 towed the motor vehicle being subordinate to the lien of the  
 8 lienholder appearing on the certificate of title and render void  
 9 any disposition of the motor vehicle by the person who towed the  
 10 motor vehicle.".

11 2. On page 13, line 14, strike "and" and insert  
 12 "60-6,297,"; and in line 15 after "60-6,298," insert "60-2404, and  
 13 60-2410,".

14 3. Renumber the remaining sections accordingly.

## GENERAL FILE

**LEGISLATIVE BILL 739.** Senator Chambers renewed his pending amendment, FA115, found on page 910, to the first Standing Committee amendment.

Pending.

## AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 739:  
 AM0890

(Amendments to Standing Committee amendments, AM0747, FA109)

- 1 1. On page 26, line 27, strike "or any September 30".
- 2 2. On page 27, line 1, strike "thereafter".

Senator Beutler filed the following amendment to LB 739:  
 AM0888

(Amendments to Standing Committee amendments, AM0747, FA109)

- 1 1. On page 26, line 23, strike "ten dollars" and insert
- 2 "three and four-tenths percent".

Senator Beutler filed the following amendment to LB 739:  
 AM0891

(Amendments to Standing Committee amendments, AM0747, FA111)

- 1 1. On page 10, line 16, strike "2007, 2008, or 2009" and
- 2 insert "or any September 30 thereafter".

Senator Chambers filed the following amendment to LB 739:  
 FA117

Amend AM0747

On page 26, line 19 strike and show as stricken "down" and insert "up".

Senator Brown filed the following amendment to LB 361:  
 AM0838

(Amendments to Standing Committee amendments, AM0523)

- 1 1. Strike sections 25 and 26 and insert the following
- 2 new sections:
- 3 "Sec. 25. Section 20-325, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:

5 20-325. The commission shall:

6 (1) Make studies with respect to the nature and extent of  
7 discriminatory housing practices in representative urban, suburban,  
8 and rural communities throughout the state;

9 (2) Publish and disseminate reports, recommendations, and  
10 information derived from such studies, including an annual report  
11 to the Legislature:

12 (a) Specifying the nature and extent of progress made  
13 statewide in eliminating discriminatory housing practices and  
14 furthering the purposes of the Nebraska Fair Housing Act, obstacles  
15 remaining to achieving equal housing opportunity, and

16 recommendations for further legislative or executive action; and

17 (b) Containing tabulations of the number of instances and  
18 the reasons therefor in the preceding year in which:

19 (i) Investigations have not been completed as required by  
20 subdivision (1)(b) of section 20-326;

21 (ii) Determinations have not been made within the time  
22 specified in section 20-333; and

23 (iii) Hearings have not been commenced or findings and  
1 conclusions have not been made as required by section 20-337;

2 (3) Cooperate with and render technical assistance to  
3 state, local, and other public or private agencies, organizations,  
4 and institutions which are formulating or carrying on programs to  
5 prevent or eliminate discriminatory housing practices; ~~and~~

6 (4) Annually report to the Legislature and make available  
7 to the public data on the age, race, color, religion, national  
8 origin, handicap, familial status, and sex of persons and  
9 households who are applicants for, participants in, or  
10 beneficiaries or potential beneficiaries of programs administered  
11 by the commission. In order to develop the data to be included and  
12 made available to the public under this subdivision, the commission  
13 shall, without regard to any other provision of law, collect such  
14 information relating to those characteristics as the commission  
15 determines to be necessary or appropriate;

16 (5) Adopt and promulgate rules and regulations, subject  
17 to the approval of the commissioners, regarding the investigative  
18 and conciliation process that provide for testing standards,  
19 fundamental due process, and notice to the parties of their rights  
20 and responsibilities; and

21 (6) Have authority to enter into agreements with the  
22 United States Department of Housing and Urban Development in  
23 cooperative agreements under the Fair Housing Assistance Program.  
24 The commission shall further have the authority to enter into  
25 agreements with testing organizations to assist in investigative  
26 activities. The commission shall not enter into any agreements  
27 under which compensation to the testing organization is partially  
1 or wholly based on the number of conciliations, settlements, and  
2 reasonable cause determinations.

3 Sec. 26. Section 20-326, Revised Statutes Supplement,

4 2004, is amended to read:

5 20-326. (1)(a)(i) An aggrieved person may, not later  
6 than one year after an alleged discriminatory housing practice has  
7 occurred or terminated, file a complaint with the commission  
8 alleging such discriminatory housing practice. The commission, on  
9 its own initiative, may also file such a complaint.

10 (ii) The complaint shall be in writing and shall contain  
11 such information and be in such form as the commission requires.

12 (iii) The commission may also investigate housing  
13 practices to determine whether a complaint should be brought under  
14 this section.

15 (b) Upon the filing of a complaint:

16 (i) The commission shall serve notice upon the aggrieved  
17 person acknowledging such filing and advising the aggrieved person  
18 of the time limits and choice of forums provided under the Nebraska  
19 Fair Housing Act;

20 (ii) The commission shall, not later than ten days after  
21 such filing or the identification of an additional respondent under  
22 subsection (2) of this section, serve on the respondent a notice  
23 identifying the alleged discriminatory housing practice; and  
24 advising such respondent of the procedural rights and obligations  
25 of respondents under the act, ~~and informing the respondent of the~~  
~~right at any time, upon request, to obtain information derived from~~  
~~an investigation and any investigative report relating to that~~

1 ~~investigation as provided in subsections (2) and (3) of section~~  
2 ~~20-330, together with a copy of the original complaint;~~

3 (iii) Each respondent may file, not later than ten days  
4 after receipt of notice from the commission, an answer to the  
5 complaint; and

6 (iv) Unless it is impracticable to do so, the commission  
7 shall investigate the alleged discriminatory housing practice and  
8 complete such investigation within one hundred days after the  
9 filing of the complaint or, when the commission takes further  
10 action under section 20-332 with respect to a complaint, within one  
11 hundred days after the commencement of such further action.

12 (c) If the commission is unable to complete the  
13 investigation within one hundred days after the filing of the  
14 complaint or after the commencement of such further action, the  
15 commission shall notify the complainant and respondent in writing  
16 of the reasons for not doing so.

17 (d) Complaints and answers shall be under oath and may be  
18 reasonably and fairly amended at any time.

19 (2)(a) A person who is not named as a respondent in a  
20 complaint but who is identified as a respondent in the course of  
21 investigation may be joined as an additional or substitute  
22 respondent upon written notice under subdivision (1)(b)(ii) of this  
23 section to such person from the commission.

24 (b) The notice shall explain the basis for the  
25 commission's belief that the person to whom the notice is addressed

26 is properly joined as a respondent.

27 Sec. 27. Section 20-327, Reissue Revised Statutes of  
1 Nebraska, is amended to read:

2 20-327. (1) During the period beginning with the filing  
3 of the complaint and ending with the issuance of a charge or a  
4 dismissal by the commission, the commission shall, to the extent  
5 feasible, engage in conciliation with respect to the complaint.

6 (2) A conciliation agreement shall be an agreement  
7 between the complainant and the respondent and shall be subject to  
8 the approval of the commissioners, which approval may not be  
9 delegated.

10 (3) A conciliation agreement arising out of such  
11 conciliation shall be an agreement between the respondent and the  
12 complainant and shall be subject to approval by the commission.

13 ~~(3)~~ (4) A conciliation agreement may provide for binding  
14 arbitration of the dispute arising from the complaint. Any such  
15 arbitration that results from a conciliation agreement may award  
16 appropriate relief, including monetary relief.

17 ~~(4)~~ (5) Each conciliation agreement shall be made public  
18 unless the complainant and respondent otherwise agree and the  
19 commission determines that disclosure is not required to further  
20 the purposes of the Nebraska Fair Housing Act.

21 ~~(5)~~ (6) A conciliation agreement between a respondent and  
22 complainant which has been approved by the commission shall not be  
23 deemed an adjudication that the respondent has committed a  
24 discriminatory housing practice nor shall the conciliation  
25 agreement be the subject of an order for relief under section  
26 20-337, unless the conciliation agreement is entered after an  
27 adjudication pursuant to an administrative proceeding or a civil  
1 action pursuant to state or federal law in which the respondent was  
2 found to have committed a discriminatory housing practice.

3 Sec. 28. Section 20-330, Revised Statutes Supplement,  
4 2004, is amended to read:

5 20-330. (1) Except as provided in subsection ~~(4)~~ (5) of  
6 section 20-327, nothing said or done in the course of conciliation  
7 may be made public or used as evidence in a subsequent proceeding  
8 under the Nebraska Fair Housing Act without the written consent of  
9 the persons concerned. All records compiled in the course of  
10 conciliation activities shall be exempt from public release. The  
11 commission may release any fully executed conciliation agreement.

12 ~~(2)~~ (2)(a) Notwithstanding subsection (1) of this  
13 section, the commission shall make available to the aggrieved  
14 person and the respondent, ~~at any time~~, upon request, following the  
15 completion of an investigation, information derived from an  
16 investigation and any final investigative report relating to that  
17 investigation.

18 (b) The commission's release of information pursuant to  
19 subdivision (2)(a) of this section is subject to the federal  
20 Privacy Act of 1974, Public Law 93-579, as such act existed on

21 January 1, 2005, and any other state or federal laws limiting the  
 22 release of confidential information obtained in the course of an  
 23 investigation under the Nebraska Fair Housing Act.  
 24 (3) Notwithstanding subsections (1) and (2) of this  
 25 section, materials in the investigative file shall be disclosed to  
 26 the complainant and respondent to the extent reasonably necessary  
 27 to further the investigation or conciliation discussions.

1 (3) Notwithstanding subsection (1) of this section, in  
 2 any case in which the complaint is filed by the commission and  
 3 there is no aggrieved person, or in which a complaint is filed and  
 4 the only aggrieved person is a tester or a testing organization,  
 5 the commission shall provide to the respondent at any time, upon  
 6 request, copies of all information derived from an investigation  
 7 and copies of any final investigative report relating to that  
 8 investigation. All personal identification information of testers  
 9 shall be removed from the copies provided. The commission may  
 10 charge a fee, not to exceed actual cost, for copies provided under  
 11 this subsection."

12 2. On page 37, line 14, after "sections" insert "20-325,  
 13 20-327,".

14 3. Renumber the remaining sections accordingly.

Senator Flood filed the following amendment to LB 217:  
 AM0895

(Amendments to E & R amendments, AM7057)

1 1. Strike beginning with page 3, line 20, through page  
 2 4, line 25, and insert the following new subsections:  
 3 "(3) No election shall be required prior to the issuance  
 4 of bonds under the Public Facilities Construction and Finance Act  
 5 unless, within sixty days after the first publication of the notice  
 6 of intention to issue bonds, a remonstrance petition against the  
 7 issuance of bonds is filed with the clerk or secretary of the  
 8 qualified public agency. Such remonstrance petition shall be  
 9 signed by registered voters of the qualified public agency equal in  
 10 number to five percent or more of the number of registered voters  
 11 of the qualified public agency at the time the remonstrance  
 12 petition is filed. If a remonstrance petition with the necessary  
 13 number of qualified signatures is timely filed, the question shall  
 14 be submitted to the voters of the qualified public agency at a  
 15 general election or a special election called for the purpose of  
 16 approving the bonds proposed to be issued. Any joint project for  
 17 which bonds are issued in accordance with the procedures of the act  
 18 shall not require any other approval or proceeding by the governing  
 19 body or the voters of the qualified public agency.  
 20 (4) No election shall be required for any qualified  
 21 public agency not issuing bonds to participate in such joint  
 22 project unless, within sixty days after the governing body of the  
 23 qualified public agency adopts the measure approving the interlocal  
 1 or cooperative agreement related to the joint project, a

2 remonstrance petition is filed with the clerk or secretary of the  
 3 qualified public agency. Such remonstrance petition shall be  
 4 signed by registered voters of the qualified public agency equal in  
 5 number to five percent or more of the number of registered voters  
 6 of the qualified public agency at the time the remonstrance  
 7 petition is filed. If a remonstrance petition with the necessary  
 8 number of qualified signatures is timely filed, the question shall  
 9 be submitted to the voters of the qualified public agency at a  
 10 general election or a special election called for the purpose of  
 11 approving the interlocal or cooperative agreement related to the  
 12 joint project.".  
 13 2. On page 3, line 10, strike "once any time" and insert  
 14 "twice"; and in line 11 after the period insert "Such publications  
 15 shall be at least three weeks apart.".

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 673A.** Introduced by Loudon, 49.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 673, Ninety-ninth Legislature, First Session, 2005.

### **WITHDRAW - Cointroducer**

Senator Erdman withdrew his name as cointroducer to LB 588.

### **VISITORS**

Visitors to the Chamber were 51 fourth-grade students and teacher from Rockwell Elementary School, Omaha.

The Doctor of the Day was Dr. Derrick Anderson from Lincoln.

### **ADJOURNMENT**

At 3:57 p.m., on a motion by Speaker Brashear, the Legislature adjourned until 9:00 a.m., Wednesday, March 23, 2005.

Patrick J. O'Donnell  
 Clerk of the Legislature

**FORTY-NINTH DAY - MARCH 23, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FORTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, March 23, 2005

**PRAYER**

The prayer was offered by Pastor Bill Arnold, Chaplain at St. Elizabeth Regional Center and the Dialysis Center of Lincoln.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Kopplin who was excused; and Senators Friend, Hudkins, and Landis who were excused until they arrive.

**SENATOR JANSSEN PRESIDING****CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-eighth day was approved.

**MESSAGE FROM THE GOVERNOR**

March 22, 2005

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 10, 76e, 94, 98, 139e, 169, 198, 236, 238, 243e, 243Ae, 244e, 246, 262, 264, 284, 298e, 355, 441e, and 533e were received in my office on March 17, 2005.

These bills were signed by me and delivered to the Secretary of State on March 22, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

### **GENERAL FILE**

**LEGISLATIVE BILL 664.** Title read. Considered.

The Standing Committee amendment, AM0602, found on page 626, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 664A.** Title read. Considered.

Advanced to E & R for review with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

### **SPEAKER BRASHEAR PRESIDING**

**LEGISLATIVE BILL 566.** Title read. Considered.

### **SENATOR CUDABACK PRESIDING**

Advanced to E & R for review with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

### **SPEAKER BRASHEAR PRESIDING**

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 53, 54, 55, 56, 57, and 58 were adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 53, 54, 55, 56, 57, and 58.

### **SENATOR CUDABACK PRESIDING**

### **GENERAL FILE**

**LEGISLATIVE BILL 274.** Title read. Considered.

The Standing Committee amendment, AM0244, printed separately and

referred to on page 435, was adopted with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

### **STANDING COMMITTEE REPORTS**

#### **Business and Labor**

The Business and Labor Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Kenneth Stewart - Boiler Safety Code Advisory Board

VOTE: Aye: Senators Cunningham, Combs, Preister, Kremer, Burling and Schimek. Nay: None. Absent: Senator Chambers.

The Business and Labor Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Martin Kasl - Boiler Safety Code Advisory Board  
Thomas DiMartino - Boiler Safety Code Advisory Board

VOTE: Aye: Senators Cunningham, Combs, Preister, Kremer and Burling. Nay: None. Absent: Senators Chambers and Schimek.

The Business and Labor Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

David J. Cullan - Commission of Industrial Relations

VOTE: Aye: Senators Cunningham, Combs, Preister, Kremer, Burling and Schimek. Nay: None. Absent: Senator Chambers.

**LEGISLATIVE BILL 257.** Placed on General File.

**LEGISLATIVE BILL 489.** Placed on General File.

**LEGISLATIVE BILL 736.** Indefinitely postponed.

(Signed) Douglas Cunningham, Chairperson

#### **GENERAL FILE**

**LEGISLATIVE BILL 111.** Title read. Considered.

Senator Stuhr renewed her pending amendment, FA105, found on page 883.

The Stuhr amendment lost with 4 ayes, 15 nays, 27 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 37 ayes, 0 nays, 10 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 111A.** Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 273.** Title read. Considered.

The Standing Committee amendment, AM0639, found on page 654, was considered.

Senator Synowiecki renewed his pending amendment, AM0845, found on page 910, to the Standing Committee amendment.

Senator Engel moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Synowiecki moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

The Synowiecki amendment was adopted with 25 ayes, 6 nays, 14 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Pending.

### **BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 65A.** Introduced by Foley, 29.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 65, Ninety-ninth Legislature, First Session, 2005.

**LEGISLATIVE BILL 288A.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 288, Ninety-ninth Legislature, First Session, 2005.

**LEGISLATIVE BILL 438A.** Introduced by Janssen, 15.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 438, Ninety-ninth Legislature, First Session, 2005.

**AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendments to LB 273:

FA118

On page 2, line 23 strike "political subdivisions" and substitute "cities and counties"

FA119

On page 2, line 26 strike "the situations described in this section" and substitute "chronic economic distress"

FA120

Strike lines 5, 6 and 7 on page 3

FA121

On line 26, page 2 strike "At least one" and add "Both"

FA122

On page 2, line 13 after "community" add "business" and after "and" add "business"

Senator Friend filed the following amendment to LB 361:

AM0907

(Amendments to Standing Committee amendments, AM0523)

- 1 1. Insert the following new section:
- 2 "Sec. 29. Section 29-1913, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 29-1913. (1) When in any felony prosecution or any
- 5 prosecution for a misdemeanor or a violation of a city or village
- 6 ordinance for which imprisonment is a possible penalty, the
- 7 evidence of the prosecuting authority consists of scientific tests
- 8 or analyses of ballistics, firearms identification, fingerprints,
- 9 blood, semen, or other stains, upon motion of the defendant the
- 10 court where the case is to be tried may order the prosecuting
- 11 attorney to make available to the defense such evidence necessary
- 12 to allow the defense to conduct like tests or analyses with its own
- 13 experts. The order shall specify the time, place, and manner of
- 14 making such tests or analyses by the defense. Such an order shall
- 15 not be entered if the tests or analyses by the defense cannot be
- 16 made because of the natural deterioration of the evidence or
- 17 because the evidence is unavailable pursuant to section 22 of this
- 18 act.

- 19 (2) If the evidence necessary to conduct the tests or  
20 analyses by the defense is unavailable because of the neglect or  
21 intentional alteration by representatives of the prosecuting  
22 authority, other than alterations necessary to conduct the initial  
23 tests, because of compliance with section 22 of this act, the tests  
1 or analyses by the prosecuting authority shall not be admitted into  
2 evidence."  
3 2. On page 37, line 14, after "sections" insert  
4 "29-1913,".  
5 3. Renumber the remaining sections accordingly.

Senator Chambers filed the following amendment to LB 739:  
AM0918

- (Amendments to Standing Committee amendments, AM0747, FA109)  
1 1. On page 26, line 23, after the semicolon insert  
2 "and"; and strike beginning with the semicolon in line 26 through  
3 line 27.  
4 2. On page 27, strike beginning with line 1 through  
5 "amount" in line 3; and strike beginning with "An" in line 20  
6 through "that" in line 22 and insert "Good cause for voluntarily  
7 leaving employment shall include, but not be limited to, the  
8 following reasons".  
9 3. On page 29, line 12, strike the second "or"; and in  
10 line 14 after "conditions" insert "; or  
11 (10) When equity and good conscience demands a finding of  
12 good cause".  
13 4. On page 34, line 26; page 35, line 25; and page 36,  
14 line 22, strike "thirteen" and insert "twelve".  
15 5. On page 36, line 5, strike "thirteen-week" and insert  
16 "twelve-week".

Senator Loudon filed the following amendment to LB 121:  
AM0914

- 1 1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:  
3 "Section 1. (1) Notwithstanding any provision of section  
4 37-407 to the contrary, a Nebraska resident who purchased a  
5 hunting, fishing, or combination hunting and fishing permit and who  
6 was deployed out of state with a branch of the United States  
7 military shall be entitled to receive a discounted permit on a  
8 one-time basis upon returning to the state if the resident:  
9 (a) Provides to the commission satisfactory proof of  
10 purchase of the original permit and evidence of the resident's  
11 deployment out of state during the period of the original permit;  
12 and  
13 (b) Was deployed out of state for more than one-half of  
14 the period of the original permit.  
15 (2)(a) Notwithstanding any provision of section 37-447,  
16 37-449, 37-450, 37-451, or 37-457 to the contrary, a Nebraska

17 resident who purchased a big game permit and who was deployed out  
 18 of state with a branch of the United States military for the entire  
 19 season of the hunt and who was unable to use the permit shall be  
 20 entitled to receive a discounted permit on a one-time basis upon  
 21 returning to the state if the resident provides to the commission  
 22 satisfactory proof of purchase of the original permit and evidence  
 23 of the resident's deployment. Alternatively, the member of the  
 24 military may request a refund of the amount paid for a big game  
 1 permit and the commission shall pay such amount.

2 (b) For purposes of this subsection, big game means  
 3 antelope, deer, elk, mountain sheep, and wild turkeys.

4 (3) The commission shall establish a fee of five dollars  
 5 for the discounted permits authorized in this section. The  
 6 commission may authorize electronic issuance of the discounted  
 7 permits.

8 (4) The commission may adopt and promulgate rules and  
 9 regulations that set forth the procedures for applying for, and the  
 10 issuance of, the discounted permits authorized in this section.

11 Sec. 2. Section 37-201, Reissue Revised Statutes of  
 12 Nebraska, is amended to read:

13 37-201. Sections 37-201 to 37-811 and section 1 of this  
 14 act shall be known and may be cited as the Game Law.

15 Sec. 3. Original section 37-201, Reissue Revised  
 16 Statutes of Nebraska, is repealed."

Senator Chambers filed the following amendment to LB 273:  
 FA124

On page 3, strike lines 16 and 17.

## RESOLUTION

**LEGISLATIVE RESOLUTION 65.** Introduced by Byars, 30.

WHEREAS, there are more than 8,000,000 Americans who have mental retardation or other developmental disabilities; and

WHEREAS, individuals with developmental disabilities include those with mental retardation, autism, cerebral palsy, Down syndrome, epilepsy, and other related conditions; and

WHEREAS, individuals with mental retardation or other developmental disabilities have substantial limitations on their functional capacities, including limitations in two or more of the areas of self-care, receptive and expressive language, learning, mobility, self-direction, independent living, and economic self-sufficiency as well as the continuous need for individually planned and coordinated services; and

WHEREAS, for the past two decades individuals with mental retardation or other developmental disabilities and their families have increasingly expressed their desire to live and work in their communities, joining the mainstream of American life; and

WHEREAS, the Supreme Court, in the Olmstead decision, affirmed the

right of individuals with mental retardation or other developmental disabilities to receive community-based services as an alternative to institutional care; and

WHEREAS, the demand for community support and services is rapidly growing, as states comply with the Olmstead decision and continue to move more individuals from institutions into the community; and

WHEREAS, the demand will also continue to grow as family caregivers age, individuals with mental retardation or other developmental disabilities live longer, waiting lists grow, and services expand; and

WHEREAS, our nation's long-term care delivery system is dependent upon a disparate array of public and private funding sources and is not a conventional industry but rather is financed primarily through third-party insurers; and

WHEREAS, medicaid financing of support and services to individuals with mental retardation or other developmental disabilities varies considerably from state to state, causing significant disparities across geographic regions, among differing groups of consumers, and between community and institutional supports; and

WHEREAS, outside of families, private providers that employ direct support professionals deliver the majority of support and services for individuals with mental retardation or other developmental disabilities in the community; and

WHEREAS, direct support professionals provide a wide range of support and services to individuals with mental retardation or other developmental disabilities on a daily basis, including habilitation, health needs, personal care and hygiene, employment, transportation, recreation, and housekeeping and other home management-related support and services so that these individuals can live and work in their communities; and

WHEREAS, direct support professionals generally assist individuals with mental retardation or other developmental disabilities to lead a self-directed family, community, and social life; and

WHEREAS, private providers and the individuals for whom they provide support and services are in jeopardy as a result of the growing crisis in recruiting and retaining a direct support workforce; and

WHEREAS, providers of support and services to individuals with mental retardation or other developmental disabilities typically draw from a labor market that competes with other entry-level jobs that provide less physically and emotionally demanding work and higher pay and other benefits, making direct support caregivers' jobs noncompetitive in today's labor market; and

WHEREAS, annual turnover rates of direct support workers range from forty percent to seventy-five percent; and

WHEREAS, high rates of employee vacancies and turnover threaten the ability of providers to achieve their core mission which is the provision of safe and high-quality support to individuals with mental retardation or other developmental disabilities; and

WHEREAS, direct support staff turnover is emotionally difficult for the individuals being served; and

WHEREAS, many parents are becoming increasingly afraid that there will be no one available to take care of their sons and daughters with mental

retardation or other developmental disabilities who are living in the community; and

WHEREAS, this workforce shortage is the most significant barrier to implementing the Olmstead decision and undermines the expansion of community integration as called for by President Bush's New Freedom Initiative, placing the community support infrastructure at risk.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature request Congress make it a priority to ensure a stable, high-quality direct support workforce for individuals with mental retardation or other developmental disabilities that advances our nation's commitment to community integration for such individuals and to personal security for them and their families.

2. That a copy of this resolution be sent to Senator Chuck Hagel, Senator Ben Nelson, Congressman Jeff Fortenberry, Congressman Lee Terry, and Congressman Tom Osborne.

### **SPEAKER'S ANNOUNCEMENT**

Pursuant to Rule 4, Section 8, LR 65 was referred to the Reference Committee.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Stuthman asked unanimous consent to have his name added as cointroducer to LB 273. No objections. So ordered.

Senator Chambers asked unanimous consent to have his name added as cointroducer to LB 361. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were third- and fourth-grade students and teachers from Phelps County R7; Senator Kremer's daughter, son-in-law, and family, Sherri, Brian, Hannah, Landon, Kaitlyn, and Luke Holm; Senator Bourne's son Jack and Coltin Mueller from Omaha; 28 fourth-grade students and teachers from North Bend Central Elementary School; Randy Weekes, Doreen Hamilton, and Greg Brkich from Saskatchewan, Canada, and Ilene Grossman from the Midwest Legislative Council; and 44 fourth-grade students and teacher from Pershing Elementary School, Lexington.

### **ADJOURNMENT**

At 12:03 p.m., on a motion by Senator Stuthman, the Legislature adjourned until 9:00 a.m., Thursday, March 24, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**FIFTIETH DAY - MARCH 24, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FIFTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, March 24, 2005

**PRAYER**

The prayer was offered by Pastor Calvin Kroeker, Calvary Bible Evangelical Free Church, Wayne.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Kopplin who was excused; and Senators Brown, Burling, Byars, Combs, Cornett, Landis, and D. Pederson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the forty-ninth day was approved.

**SELECT COMMITTEE REPORTS****Enrollment and Review**

**LEGISLATIVE BILL 664.** Placed on Select File as amended.

E & R amendment to LB 664:

AM7067

- 1 1. On page 1, line 3, strike "and"; and in line 4 after
- 2 "section" insert "; and to declare an emergency".

**LEGISLATIVE BILL 664A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

**REPORTS**

The following reports were received by the Legislature:

**Education, Department of**

State Rehabilitation Council Report, 2003-2004

**Property Assessment and Taxation, Department of**  
2004 Annual Report

**GENERAL FILE**

**LEGISLATIVE BILL 739.** The first Standing Committee amendment, FA109, found on page 909 and considered on page 968, was renewed.

The Chambers pending amendment, FA115, found on page 910 and considered on page 979, to the first Standing Committee amendment, was renewed.

Senator Chambers asked unanimous consent to withdraw his pending amendment, FA115, found on page 910, and replace it with his substitute amendment, AM0939, to the first Standing Committee amendment. No objections. So ordered.

AM0939

(Amendments to Standing Committee amendments, AM0747, FA109)

- 1 1. On page 26, line 27, strike "2006, or any September
- 2 30" and insert "2008, or September 30, 2009,".
- 3 2. On page 27, line 1, strike "thereafter" and after
- 4 "percent" insert "and an emergency solvency surcharge is imposed
- 5 pursuant to section 3 of this act for such year"; and strike
- 6 beginning with "An" in line 20 through "that" in line 22 and insert
- 7 "Good cause for voluntarily leaving employment shall include, but
- 8 not be limited to, the following reasons".
- 9 3. On page 29, line 12, strike the second "or"; and in
- 10 line 14 after "conditions" insert "; or
- 11 (10) When equity and good conscience demands a finding of
- 12 good cause".
- 13 4. On page 34, line 26; page 35, line 25; and page 36,
- 14 line 22, strike "thirteen" and insert "twelve".
- 15 5. On page 36, line 5, strike "thirteen-week" and insert
- 16 "twelve-week".

The Chambers amendment was adopted with 42 ayes, 0 nays, 6 present and not voting, and 1 excused and not voting.

Senator Chambers withdrew his pending amendments, FA116, FA117, and AM0918, found on pages 911, 979, and 990.

Senator Beutler withdrew his pending amendments, AM0890 and AM0888, found on page 979.

The first Standing Committee amendment, as amended, was adopted with 42 ayes, 1 nay, 5 present and not voting, and 1 excused and not voting.

The second Standing Committee amendment is as follows:

(FA110 consists of Sections 8 and 9 of the Standing Committee

amendment.)

The second Standing Committee amendment was adopted with 41 ayes, 1 nay, 5 present and not voting, and 2 excused and not voting.

The third Standing Committee amendment is as follows:  
(FA111 consists of Sections 2, 3, 6, and 11 of the Standing Committee amendment.)

Senator Beutler withdrew his pending amendment, AM0891, found on page 979.

The third Standing Committee amendment was adopted with 39 ayes, 1 nay, 7 present and not voting, and 2 excused and not voting.

The fourth Standing Committee amendment is as follows:  
(FA112 consists of Sections 1, 4, 13, and 14 of the Standing Committee amendment.)

Senator Chambers withdrew his pending amendment, FA107, found on page 910.

The fourth Standing Committee amendment was adopted with 40 ayes, 1 nay, 6 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 42 ayes, 1 nay, 4 present and not voting, and 2 excused and not voting.

**LEGISLATIVE RESOLUTION 12CA.** Read. Considered.

The Special Committee amendment, AM0721, found on page 785, lost with 0 ayes, 38 nays, 9 present and not voting, and 2 excused and not voting.

Senator Engel moved the previous question. The question is, "Shall the debate now close?"

Senator Engel moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Engel requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 37:

Aguilar	Chambers	Foley	Kruse	Redfield
Baker	Connealy	Friend	Louden	Stuhr
Beutler	Cornett	Heidemann	Mines	Stuthman
Bourne	Cunningham	Howard	Pedersen, Dw.	Synowiecki
Brashear	Engel	Hudkins	Pederson, D.	Thompson
Brown	Erdman	Janssen	Preister	
Burling	Fischer	Johnson	Price	
Byars	Flood	Kremer	Raikes	

Voting in the negative, 7:

Jensen	Langemeier	Schrock	Wehrbein
Landis	Pahls	Smith	

Present and not voting, 2:

Cudaback      Schimek

Excused and not voting, 3:

Combs              Kopplin              McDonald

The motion to cease debate prevailed with 37 ayes, 7 nays, 2 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for review with 31 ayes, 9 nays, 6 present and not voting, and 3 excused and not voting.

## NOTICE OF COMMITTEE HEARING

### Natural Resources

Room 1525

Thursday, April 7, 2005

8:30 a.m.

Paul Dunn - Nebraska Environmental Trust Board

Gloria Erickson - Nebraska Environmental Trust Board

Susan Seacrest - Nebraska Environmental Trust Board

(Signed) Ed Schrock, Chairperson

## AMENDMENT - Print in Journal

Senator Beutler filed the following amendment to LB 739:  
AM0935

(Amendments to Standing Committee amendments, AM0747, FA109)

1. On page 26, line 17, after the stricken matter insert
- 2 "(1)"; in line 18 after the comma insert "through December 31,
- 3 2005"; and in lines 20 through 27 strike the new matter and insert

- 4 ", but shall not exceed one-half of the state average weekly wage  
 5 as annually determined under section 48-121.02.  
 6 (2) For any benefit year beginning on or after January 1,  
 7 2006, through December 31, 2007, an individual's weekly benefit  
 8 amount shall be one-half of his or her average weekly wage rounded  
 9 down to the nearest even whole dollar amount but shall not exceed  
 10 two hundred eighty-eight dollars per week.  
 11 (3) For any benefit year beginning on or after January 1,  
 12 2008, through December 31, 2008, an individual's weekly benefit  
 13 amount shall be one-half of his or her average weekly wage rounded  
 14 down to the nearest even whole dollar amount, but shall not exceed  
 15 the lesser of one-half of the state average weekly wage as annually  
 16 determined under section 48-121.02 or the previous year's maximum  
 17 weekly benefit amount plus ten dollars per week.  
 18 (4) For any benefit year beginning on or after January 1,  
 19 2009, an individual's weekly benefit amount shall be one-half of  
 20 his or her average weekly wage rounded down to the nearest even  
 21 whole dollar amount, but shall not exceed one-half of the state  
 22 average weekly wage as annually determined under section  
 23 48-121.02".  
 1 2. On page 27, lines 1 through 3, strike the new matter;  
 2 and in line 3 before "For" insert underscoring and "(5)".

### REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

**LB/LR**      **Committee**  
 LR 65      Health and Human Services

(Signed) Pat Engel, Chairperson  
 Legislative Council, Executive Board

### STANDING COMMITTEE REPORT Business and Labor

**LEGISLATIVE BILL 13.** Placed on General File as amended.  
 (Standing Committee amendment, AM0761, is printed separately and  
 available in the Bill Room, Room 1104.)

(Signed) Douglas Cunningham, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 361.** Title read. Considered.

The Standing Committee amendment, AM0523, printed separately and  
 referred to on page 871, was considered.

Senator Beutler requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is as follows:

(FA125 consists of Sections 1 through 21, 30, 31, 32, and 35 of the Standing Committee amendment.)

Senator Beutler offered the following amendment to the first Standing Committee amendment:

AM0936

(Amendments to Standing Committee amendments, AM0523)

- 1 1. On page 11, line 4, after "release" insert "to the
- 2 public"; in line 7 after "educational" insert "and evidence-based";
- 3 and in line 8 after "reports" insert ", which shall be available to
- 4 the public".

The Beutler amendment was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Senator Beutler offered the following amendment to the first Standing Committee amendment:

AM0937

(Amendments to Standing Committee amendments, AM0523)

- 1 1. On page 9, strike line 27 and insert "reportable
- 2 patient safety events, which changes, additions, or deletions shall
- 3 be binding on the providers. Providers may voluntarily report any
- 4 other patient safety events not otherwise identified".
- 5 2. On page 10, strike line 1; in line 9 after
- 6 "completed" insert "and an action plan developed"; and in line 10
- 7 strike "and an action plan developed".

The Beutler amendment was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

The first Standing Committee amendment, as amended, was adopted with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

The second Standing Committee amendment is as follows:

(FA126 consists of Sections 23, 24, 27, 28, 33, 34, and 36 through 39 of the Standing Committee amendment.)

The second Standing Committee amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Pending.

**AMENDMENT - Print in Journal**

Senator Cunningham filed the following amendment to LB 273A:  
AM0930

1 1. Strike the original section and insert the following  
2 new section:  
3 "Section 1. There is hereby appropriated (1) \$500,000  
4 from the General Fund for FY2005-06 and (2) \$500,000 from the  
5 General Fund for FY2006-07 to the Department of Economic  
6 Development, for Program 603, to aid in carrying out the provisions  
7 of Legislative Bill 273, Ninety-ninth Legislature, First Session,  
8 2005.  
9 There is included in the appropriation to this program  
10 for FY2005-06 \$466,500 General Funds for state aid, which shall  
11 only be used for such purpose. There is included in the  
12 appropriation to this program for FY2006-07 \$466,500 General Funds  
13 for state aid, which shall only be used for such purpose.  
14 Total expenditures for permanent and temporary salaries  
15 and per diems from funds appropriated in this section shall not  
16 exceed \$21,000 for FY2005-06 or \$21,000 for FY2006-07.".

**VISITORS**

Visitors to the Chamber were 70 fourth-grade students and teacher from Ashland-Greenwood School; 50 fourth-grade students and teacher from York; 50 fourth-grade students and teacher from La Vista West Elementary School; 14 Cub Scouts and leaders from Pack 380, Omaha; and Jim and Austin Lightner from Independence, Missouri.

The Doctor of the Day was Dr. Ron Craig from Lincoln.

**ADJOURNMENT**

At 12:03 p.m., on a motion by Senator Pedersen, the Legislature adjourned until 10:00 a.m., Tuesday, March 29, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**FIFTY-FIRST DAY - MARCH 29, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FIFTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, March 29, 2005

**PRAYER**

The prayer was offered by Senator Baker.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Brashear who was excused; and Senators Brown, Combs, Erdman, Heidemann, Jensen, Langemeier, Mines, Dw. Pedersen, D. Pederson, Price, and Synowiecki who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fiftieth day was approved.

**STANDING COMMITTEE REPORTS  
Revenue**

**LEGISLATIVE BILL 19.** Placed on General File.

**LEGISLATIVE BILL 542.** Placed on General File as amended.  
Standing Committee amendment to LB 542:  
AM0932

1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. The Legislature finds that there are  
4 significant issues relating to tax policy that need to be reviewed  
5 periodically. The Legislature also finds that a law to create a  
6 tax policy review commission to study Nebraska's tax structure,  
7 review implications for the future, ensure the retention of  
8 institutional knowledge about Nebraska's tax policy, and provide  
9 recommendations for sound tax policy for the future is essential to  
10 the long-term growth of our economy and the survival of our public  
11 institutions. To address this subject, the Legislature shall

12 appoint the Tax Policy Review Commission as provided in section 2  
13 of this act.

14 Sec. 2. The Tax Policy Review Commission is created.

15 The commission shall have fifteen members appointed by the

16 Executive Board of the Legislative Council as follows:

17 (1) Eight members of the Legislature, at least six of  
18 whom will not be term-limited out of the Legislature in January  
19 2007;

20 (2) One representative of the education community  
21 appointed from a list of names submitted by the Education Committee  
22 of the Legislature;

23 (3) One representative of production agriculture  
24 appointed from a list of names submitted by the Agriculture  
1 Committee of the Legislature;

2 (4) One representative of industry and manufacturing  
3 appointed from a list of names submitted by the Business and Labor  
4 Committee of the Legislature;

5 (5) One representative of the financial sector appointed  
6 from a list of names submitted by the Banking, Commerce and  
7 Insurance Committee of the Legislature;

8 (6) One representative of the telecommunications sector  
9 appointed from a list of names submitted by the Transportation and  
10 Telecommunications Committee of the Legislature; and

11 (7) One representative of city government and one  
12 representative of county government appointed from two lists of  
13 names submitted by the Government, Military and Veterans Affairs  
14 Committee of the Legislature.

15 Sec. 3. The Tax Policy Review Commission shall elect a  
16 chairperson from among its members. The commission shall meet  
17 quarterly or more often if the chairperson determines additional  
18 meetings are necessary to accomplish the objectives established in  
19 this act giving consideration to the funds appropriated. Members  
20 shall be reimbursed for their actual and necessary expenses as  
21 provided in sections 81-1174 to 81-1176.

22 Sec. 4. The Tax Policy Review Commission shall:

23 (1) Evaluate current Nebraska tax policies and how they  
24 relate to generally recognized tax policies of adequacy, equity,  
25 economic competitiveness, simplicity, and accountability and  
26 recommend improvements;

27 (2) Examine household tax burdens and business tax  
1 burdens as compared to the United States as a whole and nearby  
2 states and recommend improvements;

3 (3) Examine nominal tax rates as compared to the United  
4 States as a whole and nearby states and recommend improvements;

5 (4) Evaluate current business tax incentive programs and  
6 recommend improvements;

7 (5) Examine the impact of changes in the fundamentals of  
8 the Nebraska economy on the revenue adequacy and stability for the  
9 state and recommend improvements;

- 10 (6) Examine demographic changes taking place in our  
11 state, anticipate the effects such changes have on the revenue  
12 adequacy and stability for the state in the future, and recommend  
13 improvements; and  
14 (7) Issue a report to the Executive Board of the  
15 Legislative Council and the Revenue Committee of the Legislature by  
16 November 15, 2006, containing any recommendations for legislation  
17 to reform tax policy and, if appropriate, draft legislative  
18 proposals.  
19 Sec. 5. The Tax Policy Review Commission may hold  
20 hearings throughout the state for the purpose of receiving input  
21 from the public on the issues identified in section 4 of this act.  
22 Sec. 6. (1) Employees of the Department of Revenue, the  
23 Department of Property Assessment and Taxation, and the Legislative  
24 Council shall be available to the Tax Policy Review Commission to  
25 assist it in carrying out its work. The commission may contract  
26 with a meeting facilitator and with experts from any institution of  
27 postsecondary education in the state to provide assistance,  
1 specific research, research or policy reports, or presentations to  
2 carry out the purposes of section 4 of this act, within the  
3 constraints of the appropriation provided.  
4 (2) Funding for the commission shall be appropriated to  
5 the Legislative Council and shall not exceed one hundred thousand  
6 dollars.  
7 Sec. 7. This act terminates on December 31, 2006.  
8 Sec. 8. Since an emergency exists, this act takes effect  
9 when passed and approved according to law."

**LEGISLATIVE BILL 133.** Indefinitely postponed.  
**LEGISLATIVE BILL 147.** Indefinitely postponed.  
**LEGISLATIVE BILL 313.** Indefinitely postponed.  
**LEGISLATIVE BILL 404.** Indefinitely postponed.  
**LEGISLATIVE BILL 472.** Indefinitely postponed.  
**LEGISLATIVE BILL 482.** Indefinitely postponed.  
**LEGISLATIVE BILL 520.** Indefinitely postponed.  
**LEGISLATIVE BILL 615.** Indefinitely postponed.  
**LEGISLATIVE BILL 672.** Indefinitely postponed.  
**LEGISLATIVE BILL 723.** Indefinitely postponed.  
**LEGISLATIVE BILL 763.** Indefinitely postponed.

(Signed) David Landis, Chairperson

## MESSAGES FROM THE GOVERNOR

March 25, 2005

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018

Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 9, 55e, 78, 97, 105, 115, 122, 201e, 241, 247, and 259e were received in my office on March 21, 2005.

These bills were signed by me and delivered to the Secretary of State on March 25, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

March 28, 2005

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 291, 306, 306Ae, 319e, 320, 331, 342, 380, 396, 402, 406e, 450, 451, 453, 471, 475, 476, 501, 525, 528, 534, 544, 626, 639, 640, 676e, 754, and 762 were received in my office on March 22, 2005.

These bills were signed by me and delivered to the Secretary of State on March 28, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

March 24, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Please withdraw the following name from confirmation to the Nebraska State Fair Board due to his resignation.

Stephen J. McCollister  
11815 Oakair Plaza  
Omaha, NE 68137

Thank you.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/

Enclosure

### **MOTIONS - Approve Appointments**

Senator Cunningham moved the adoption of the Business and Labor Committee report for the confirmation of the following appointment(s) found on page 987:

Commission of Industrial Relations  
David J. Cullan

Voting in the affirmative, 26:

Aguilar	Cudaback	Howard	Kruse	Schrock
Baker	Cunningham	Hudkins	Louden	Stuthman
Burling	Engel	Janssen	Pahls	
Byars	Fischer	Johnson	Raikes	
Connealy	Flood	Kopplin	Redfield	
Cornett	Friend	Kremer	Schimek	

Voting in the negative, 0.

Present and not voting, 10:

Beutler	Chambers	McDonald	Smith	Thompson
Bourne	Landis	Preister	Stuhr	Wehrbein

Excused and not voting, 13:

Brashear	Erdman	Jensen	Pedersen, Dw.	Synowiecki
Brown	Foley	Langemeier	Pederson, D.	
Combs	Heidemann	Mines	Price	

The appointment was confirmed with 26 ayes, 0 nays, 10 present and not voting, and 13 excused and not voting.

Senator Cunningham moved the adoption of the Business and Labor Committee report for the confirmation of the following appointment(s) found on page 987:

Boiler Safety Code Advisory Board  
Kenneth Stewart

Voting in the affirmative, 28:

Aguilar	Cornett	Friend	Kremer	Schrock
Baker	Cudaback	Howard	Kruse	Stuthman
Bourne	Cunningham	Hudkins	Louden	Synowiecki
Burling	Engel	Janssen	Pahls	Wehrbein
Byars	Fischer	Johnson	Redfield	
Connealy	Flood	Kopplin	Schimek	

Voting in the negative, 0.

Present and not voting, 9:

Beutler	Landis	Preister	Smith	Thompson
Chambers	McDonald	Raikes	Stuhr	

Excused and not voting, 12:

Brashear	Erdman	Jensen	Pedersen, Dw.
Brown	Foley	Langemeier	Pederson, D.
Combs	Heidemann	Mines	Price

The appointment was confirmed with 28 ayes, 0 nays, 9 present and not voting, and 12 excused and not voting.

Senator Cunningham moved the adoption of the Business and Labor Committee report for the confirmation of the following appointment(s) found on page 987:

Boiler Safety Code Advisory Board  
 Martin Kasl  
 Thomas DiMartino

Voting in the affirmative, 28:

Aguilar	Cornett	Friend	Louden	Schrock
Baker	Cudaback	Howard	Pahls	Stuthman
Bourne	Cunningham	Hudkins	Pederson, D.	Synowiecki
Burling	Engel	Janssen	Price	Wehrbein
Byars	Fischer	Kopplin	Raikes	
Connealy	Flood	Landis	Redfield	

Voting in the negative, 0.

Present and not voting, 11:

Beutler	Kremer	Preister	Stuhr
Chambers	Kruse	Schimek	Thompson
Johnson	McDonald	Smith	

Excused and not voting, 10:

Brashear	Combs	Foley	Jensen	Mines
Brown	Erdman	Heidemann	Langemeier	Pedersen, Dw.

The appointments were confirmed with 28 ayes, 0 nays, 11 present and not voting, and 10 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 121.** E & R amendment, AM7066, found on page 969, was adopted.

Senator Louden renewed his pending amendment, AM0914, found on page 990.

The Louden amendment was adopted with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 234.** E & R amendment, AM7063, found on page 969, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 516.** Senator Beutler renewed his pending amendment, AM0874, found on page 967.

The Beutler amendment was adopted with 33 ayes, 0 nays, 8 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 485.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 492.** E & R amendment, AM7064, found on page 969, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 39.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 352.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 299.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 144.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 684.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 684A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 668.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 131.** E & R amendment, AM7065, found on page 970, was adopted.

Advanced to E & R for engrossment.

### **MOTION - Return LB 242 to Select File**

Senator Brown moved to return LB 242 to Select File for her specific pending amendment, AM0840, found on page 976.

The Brown motion to return prevailed with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

### **SELECT FILE**

**LEGISLATIVE BILL 242.** The Brown specific pending amendment, AM0840, found on page 976, was adopted with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 217.** E & R amendment, AM7057, found on page 832, was adopted.

Senator Flood withdrew his pending amendment, AM0895, found on page 983.

Senator Flood offered the following amendment:  
AM0968

(Amendments to E & R amendments, AM7057)

- 1 1. On page 3, line 10, strike "once any time" and insert
- 2 "twice"; and in line 11 after the period insert "Such publications
- 3 shall be at least three weeks apart.".
- 4 2. Strike beginning with page 3, line 20, through page
- 5 4, line 25, and insert the following new subsections:
- 6 "(3) No election shall be required prior to the issuance
- 7 of bonds under the Public Facilities Construction and Finance Act
- 8 unless, within sixty days after the first publication of the notice
- 9 of intention to issue bonds, a remonstrance petition against the
- 10 issuance of bonds is filed with the clerk or secretary of the
- 11 qualified public agency. Such remonstrance petition shall be
- 12 signed by registered voters of the qualified public agency equal in
- 13 number to at least five percent of the number of registered voters
- 14 of the qualified public agency at the time the remonstrance
- 15 petition is filed or at least the number of signatures listed in
- 16 subsection (5) of this section for the applicable qualified public

17 agency, whichever is less. If a remonstrance petition with the  
 18 necessary number of qualified signatures is timely filed, the  
 19 question shall be submitted to the voters of the qualified public  
 20 agency at a general election or a special election called for the  
 21 purpose of approving the bonds proposed to be issued. Any joint  
 22 project for which bonds are issued in accordance with the  
 23 procedures of the act shall not require any other approval or  
 1 proceeding by the governing body or the voters of the qualified  
 2 public agency.  
 3 (4) No election shall be required for any qualified  
 4 public agency not issuing bonds to participate in such joint  
 5 project unless, within sixty days after the governing body of the  
 6 qualified public agency adopts the measure approving the interlocal  
 7 or cooperative agreement related to the joint project, a  
 8 remonstrance petition is filed with the clerk or secretary of the  
 9 qualified public agency. Such remonstrance petition shall be  
 10 signed by registered voters of the qualified public agency equal in  
 11 number to at least five percent of the number of registered voters  
 12 of the qualified public agency at the time the remonstrance  
 13 petition is filed or at least the number of signatures listed in  
 14 subsection (5) of this section for the applicable qualified public  
 15 agency, whichever is less. If a remonstrance petition with the  
 16 necessary number of qualified signatures is timely filed, the  
 17 question shall be submitted to the voters of the qualified public  
 18 agency at a general election or a special election called for the  
 19 purpose of approving the interlocal or cooperative agreement  
 20 related to the joint project.  
 21 (5) The chart in this subsection provides the alternative  
 22 number of signatures of registered voters of a qualified public  
 23 agency which may be used to submit a remonstrance petition under  
 24 subsection (3) or (4) of this section. The classification of  
 25 counties in section 23-1114.01 applies for purposes of this  
 26 section.

<u>Qualified Public Agency</u>	<u>Number of Signatures of Registered Voters</u>
1 <u>City of the Metropolitan Class</u>	<u>1500</u>
2 <u>City of the Primary Class</u>	<u>1000</u>
3 <u>City of the First Class</u>	<u>750</u>
4 <u>City of the Second Class</u>	<u>250</u>
5 <u>Villages</u>	<u>50</u>
6 <u>Municipal County</u>	<u>1500</u>
7 <u>Class 7 County</u>	<u>1500</u>
8 <u>Class 6 County</u>	<u>1000</u>
9 <u>Class 5 County</u>	<u>750</u>
10 <u>Class 4 County</u>	<u>500</u>
11 <u>Class 3 County</u>	<u>250</u>
12 <u>Class 2 County</u>	<u>100</u>
13 <u>Class 1 County</u>	<u>50</u>
14 <u>Class VI School District</u>	<u>250</u>

16	<u>Class V School District</u>	<u>1500</u>
17	<u>Class IV School District</u>	<u>1000</u>
18	<u>Class III School District</u>	<u>500</u>
19	<u>Class II School District</u>	<u>250</u>
20	<u>Class I School District</u>	<u>250</u>
21	<u>Educational Service Unit</u>	<u>250</u>
22	<u>Community College Area</u>	<u>1500</u>
23	<u>Fire Protection District</u>	<u>500</u>
24	<u>Hospital District</u>	<u>500</u>
25	<u>Sanitary and Improvement District</u>	<u>500".</u>

The Flood amendment was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

Senator Beutler offered the following amendment:  
AM0962

(Amendments to E & R amendments, AM7057)

- 1 1. On page 1, line 15; and page 2, line 5, after
- 2 "control" insert "and storm water drainage".

The Beutler amendment was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Senator Beutler offered the following amendment:  
AM0963

(Amendments to E & R amendments, AM7057)

- 1 1. On page 5, line 4, strike "and the" and insert
- 2 "except that cities of the primary class may not issue more than
- 3 fifteen million dollars and cities of the metropolitan class may
- 4 not issue more than twenty-five million dollars. The"; and in line
- 5 10 after "dollars" insert ", except that the aggregate amount for
- 6 one joint project involving a city of the primary class shall not
- 7 exceed fifteen million dollars or for one joint project involving a
- 8 city of the metropolitan class shall not exceed twenty-five million
- 9 dollars".

Senator Beutler withdrew his amendment.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 675.** Senator Langemeier withdrew his pending amendment, AM0831, found on page 882.

Senator Langemeier offered the following amendment:  
AM0961

- 1 1. On page 10, strike beginning with "within" in line 1
- 2 through "districts" in line 2 and all amendments thereto and insert
- 3 "at the school he or she attends"; and in line 15 strike "two",
- 4 show as stricken, and insert "three".

The Langemeier amendment was adopted with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 675A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 206.** E & R amendment, AM7059, printed separately and referred to on page 885, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 268.** E & R amendment, AM7058, found on page 885, was adopted.

Senator Beutler renewed his pending amendment, AM0860, found on page 966.

The Beutler amendment was adopted with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 439.** E & R amendment, AM7060, found on page 885, was adopted.

Senator Kremer renewed his pending amendment, AM0871, found on page 917.

The Kremer amendment was adopted with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 150.** E & R amendment, AM7017, found on page 597, was adopted.

Senator Beutler renewed the Beutler-Kremer pending amendment, AM0817, found on page 970.

The Beutler-Kremer amendment was adopted with 28 ayes, 0 nays, 19 present and not voting, and 2 excused and not voting.

Senator Chambers offered the following amendment:  
AM0967

- 1 1. Strike original sections 7 and 10 and all amendments
- 2 thereto and insert:

3 "Sec. 7. (1) At each sale of cattle from a producer, the  
 4 producer may at the point of sale with the producer's written  
 5 consent pay a fee of one dollar per head of cattle sold. The  
 6 producer shall remit the fee to the collecting person as provided  
 7 in section 8 of this act.  
 8 (2) Unless the director has entered into a reciprocal  
 9 agreement with the other state or states involved which provides  
 10 otherwise, when cattle are sold to an out-of-state buyer who  
 11 transacts business in Nebraska, the sale shall be deemed to have  
 12 occurred in Nebraska if the cattle sold were being raised, fed, or  
 13 otherwise maintained within Nebraska immediately prior to sale."  
 14 2. On page 3, line 4, strike "(a)"; and strike beginning  
 15 with "or" in line 6 through "act" in line 7.  
 16 3. On page 7, line 22, strike "imposed pursuant to" and  
 17 insert "under"; in line 23 after the semicolon insert "and"; and  
 18 strike beginning with "Make" in line 24 through "(3)" in line 26.  
 19 4. On page 9, line 15, strike "fee prescribed in" and  
 20 insert "voluntary fee under".  
 21 5. On page 10, line 7, strike the last "the" and insert  
 22 "any".  
 23 6. Renumber the remaining sections and correct internal  
 24 references accordingly.

Pending.

### **BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 554A.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 554, Ninety-ninth Legislature, First Session, 2005.

**LEGISLATIVE BILL 500A.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 500, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

### **AMENDMENTS - Print in Journal**

Senator Friend filed the following amendment to LR 12CA:  
 AM0969

- 1 1. On page 2, line 6, strike "twenty-four" and insert
- 2 "eighteen"; and in line 19 strike "twenty-four" and insert
- 3 "eighteen".

Senator Smith filed the following amendment to LR 12CA:  
AM0950

- 1 1. On page 2, line 5, strike the new matter and
- 2 reinstate the stricken matter; in line 6 strike the new matter,
- 3 reinstate "not to exceed", before "thousand" insert "two", and
- 4 reinstate "per"; in line 7 reinstate the stricken matter; in line
- 5 18 strike "annual" and insert "monthly"; and in line 19 strike
- 6 "twenty-four" and insert "not to exceed two".

## **STANDING COMMITTEE REPORTS**

### **Business and Labor**

**LEGISLATIVE BILL 297.** Placed on General File as amended.  
Standing Committee amendment to LB 297:  
AM0599

- 1 1. On page 2, line 25, strike "six months" and insert
- 2 "one year".

**LEGISLATIVE BILL 436.** Placed on General File as amended.  
Standing Committee amendment to LB 436:  
AM0959

- 1 1. On page 2, after line 27, insert the following new
- 2 paragraph:
- 3 "For purposes of this subdivision, when assessing the
- 4 earning power of the employee, the compensation court may consider
- 5 serious and permanent disfigurement of any body part to the extent
- 6 that it alters personal appearance and impairs the future
- 7 usefulness or earnings of the employee in the employee's occupation
- 8 at the time of receiving the injury.".
- 9 2. On page 4, lines 17 through 21; and page 5, lines 21
- 10 through 27, strike the new matter.

(Signed) Douglas Cunningham, Chairperson

## **RESOLUTION**

**LEGISLATIVE RESOLUTION 66.** Introduced by Stuhr, 24.

WHEREAS, Myrna Swanson of Seward, Nebraska, is being honored as Nebraska's Mother of the Year for 2005; and

WHEREAS, this award exemplifies the ideals of successful motherhood: understanding, patience, compassion, love, courage, character, and community spirit; and

WHEREAS, Myrna and Jack Swanson are the parents of three children and ten grandchildren; and

WHEREAS, Myrna is an outstanding volunteer in many organizations, including the Concordia University Guild, the Plum Creek Children's Literacy Festival, the Memorial Health Care Systems Auxiliary, the GFWC Seward Woman's Club, and St. John Lutheran Church; and

WHEREAS, Myrna Swanson meets and exceeds the requirements of this award, all of which demand efficient organizational, time management, and leadership skills.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature recognizes and congratulates Myrna Swanson.
2. That a copy of this resolution be sent to Myrna Swanson.

Laid over.

### **VISITORS**

Visitors to the Chamber were Kia and Miles Colborn from Lincoln and Roland Hicks from Hemet, California; 48 fourth-grade students and teachers from Clarmar Elementary School, Fremont; 70 representatives of the Council of Catholic Women from across the state; 40 fourth-grade students and teacher from Minne Lusa Elementary School, Omaha; and 34 seniors, teacher, and sponsor from Wilcox-Hildreth Public School.

### **RECESS**

At 12:00 p.m., on a motion by Senator Pahls, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

### **ROLL CALL**

The roll was called and all members were present except Senator Brashear who was excused; and Senators Bourne, Heidemann, Landis, McDonald, and Mines who were excused until they arrive.

### **SELECT FILE**

**LEGISLATIVE BILL 150.** The Chambers pending amendment, AM0967, found in this day's Journal, was renewed.

Senator Chambers offered the following amendment to his pending amendment:

FA131

Amend AM0967

In line 22 after "any" insert, "on page 12 in line 14 strike "or" and insert "nor", and in line 18 strike "proper" and insert "appropriate".

Senator Chambers asked unanimous consent to bracket until May 15, 2005.

Senator Kremer objected.

Senator Chambers offered the following motion:  
Bracket until May 15, 2005.

Senator Chambers moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Senator Chambers requested a record vote on his motion to bracket.

Voting in the affirmative, 13:

Bourne	Conneally	Howard	Pahls	Thompson
Chambers	Cornett	Kruse	Schimek	
Combs	Cudaback	McDonald	Synowiecki	

Voting in the negative, 31:

Aguilar	Erdman	Janssen	Pedersen, Dw.	Stuhr
Baker	Fischer	Johnson	Pederson, D.	Stuthman
Brown	Flood	Kopplin	Price	Wehrbein
Burling	Foley	Kremer	Raikes	
Byars	Friend	Landis	Redfield	
Cunningham	Heidemann	Langemeier	Schrock	
Engel	Hudkins	Mines	Smith	

Present and not voting, 4:

Beutler	Jensen	Louden	Preister
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Excused and not voting, 1:

Brashear

The Chambers motion to bracket failed with 13 ayes, 31 nays, 4 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

The Chambers pending amendment, FA131, found in this day's Journal, to his pending amendment, AM0967, was renewed.

The Chambers amendment was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

Pending.

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 256A.** Introduced by Price, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 256, Ninety-ninth Legislature, First Session, 2005.

**AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 588:  
AM0979

- 1 1. Insert the following new section:
- 2 "Sec. 7. Section 77-2711, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 77-2711. (1)(a) The Tax Commissioner shall enforce
- 5 sections 77-2701.04 to 77-2713 and may prescribe, adopt, and
- 6 enforce rules and regulations relating to the administration and
- 7 enforcement of such sections.
- 8 (b) The Tax Commissioner may prescribe the extent to
- 9 which any ruling or regulation shall be applied without retroactive
- 10 effect.
- 11 (2) The Tax Commissioner may employ accountants,
- 12 auditors, investigators, assistants, and clerks necessary for the
- 13 efficient administration of the Nebraska Revenue Act of 1967 and
- 14 may delegate authority to his or her representatives to conduct
- 15 hearings, prescribe regulations, or perform any other duties
- 16 imposed by such act.
- 17 (3)(a) Every seller, every retailer, and every person
- 18 storing, using, or otherwise consuming in this state property
- 19 purchased from a retailer shall keep such records, receipts,
- 20 invoices, and other pertinent papers in such form as the Tax
- 21 Commissioner may reasonably require.
- 22 (b) Every such seller, retailer, or person shall keep
- 23 such records for not less than three years from the making of such
- 24 records unless the Tax Commissioner in writing sooner authorized
- 1 their destruction.
- 2 (4) The Tax Commissioner or any person authorized in
- 3 writing by him or her may examine the books, papers, records, and
- 4 equipment of any person selling property and any person liable for
- 5 the use tax and may investigate the character of the business of
- 6 the person in order to verify the accuracy of any return made or,
- 7 if no return is made by the person, to ascertain and determine the
- 8 amount required to be paid. In the examination of any person
- 9 selling property or of any person liable for the use tax, an
- 10 inquiry shall be made as to the accuracy of the reporting of city
- 11 sales and use taxes for which the person is liable under the Local

12 Option Revenue Act or sections 13-319, 13-324, and 13-2813 and the  
13 accuracy of the allocation made between the various counties,  
14 cities, villages, and municipal counties of the tax due. The Tax  
15 Commissioner may make or cause to be made copies of resale or  
16 exemption certificates and may pay a reasonable amount to the  
17 person having custody of the records for providing such copies.

18 (5) The taxpayer shall have the right to keep or store  
19 his or her records at a point outside this state and shall make his  
20 or her records available to the Tax Commissioner at all times.

21 (6) In administration of the use tax, the Tax  
22 Commissioner may require the filing of reports by any person or  
23 class of persons having in his, her, or their possession or custody  
24 information relating to sales of property, the storage, use, or  
25 other consumption of which is subject to the tax. The report shall  
26 be filed when the Tax Commissioner requires and shall set forth the  
27 names and addresses of purchasers of the property, the sales price  
1 of the property, the date of sale, and such other information as  
2 the Tax Commissioner may require.

3 (7) It shall be a Class I misdemeanor for the Tax  
4 Commissioner or any official or employee of the Tax Commissioner to  
5 make known in any manner whatever the business affairs, operations,  
6 or information obtained by an investigation of records and  
7 activities of any retailer or any other person visited or examined  
8 in the discharge of official duty or the amount or source of  
9 income, profits, losses, expenditures, or any particular thereof,  
10 set forth or disclosed in any return, or to permit any return or  
11 copy thereof, or any book containing any abstract or particulars  
12 thereof to be seen or examined by any person not connected with the  
13 Tax Commissioner. Nothing in this section shall be construed to  
14 prohibit (a) the delivery to a taxpayer, his or her duly authorized  
15 representative, or his or her successors, receivers, trustees,  
16 executors, administrators, assignees, or guarantors, if directly  
17 interested, of a certified copy of any return or report in  
18 connection with his or her tax, (b) the publication of statistics  
19 so classified as to prevent the identification of particular  
20 reports or returns and the items thereof, (c) the inspection by the  
21 Attorney General, other legal representative of the state, or  
22 county attorney of the reports or returns of any taxpayer when  
23 either (i) information on the reports or returns is considered by  
24 the Attorney General to be relevant to any action or proceeding  
25 instituted by the taxpayer or against whom an action or proceeding  
26 is being considered or has been commenced by any state agency or  
27 the county or (ii) the taxpayer has instituted an action to review  
1 the tax based thereon or an action or proceeding against the  
2 taxpayer for collection of tax or failure to comply with the  
3 Nebraska Revenue Act of 1967 is being considered or has been  
4 commenced, (d) the furnishing of any information to the United  
5 States Government or to states allowing similar privileges to the  
6 Tax Commissioner, (e) the disclosure of information and records to

7 a collection agency contracting with the Tax Commissioner pursuant  
8 to sections 77-377.01 to 77-377.04, or (f) the disclosure to  
9 another party to a transaction of information and records  
10 concerning the transaction between the taxpayer and the other  
11 party.

12 (8) Notwithstanding the provisions of subsection (7) of  
13 this section, the Tax Commissioner may permit the Postal Inspector  
14 of the United States Postal Service or his or her delegates to  
15 inspect the reports or returns of any person filed pursuant to the  
16 Nebraska Revenue Act of 1967 when information on the reports or  
17 returns is relevant to any action or proceeding instituted or being  
18 considered by the United States Postal Service against such person  
19 for the fraudulent use of the mails to carry and deliver false and  
20 fraudulent tax returns to the Tax Commissioner with the intent to  
21 defraud the State of Nebraska or to evade the payment of Nebraska  
22 state taxes.

23 (9) Notwithstanding the provisions of subsection (7) of  
24 this section, the Tax Commissioner may permit other tax officials  
25 of this state to inspect the tax returns, reports, and applications  
26 filed under sections 77-2701.04 to 77-2713, but such inspection  
27 shall be permitted only for purposes of enforcing a tax law and  
1 only to the extent and under the conditions prescribed by the rules  
2 and regulations of the Tax Commissioner.

3 (10) Notwithstanding the provisions of subsection (7) of  
4 this section, the Tax Commissioner may, upon request, provide the  
5 county board of any county which has exercised the authority  
6 granted by section 81-1254 with a list of the names and addresses  
7 of the hotels located within the county for which lodging sales tax  
8 returns have been filed or for which lodging sales taxes have been  
9 remitted for the county's County Visitors Promotion Fund under the  
10 Nebraska Visitors Development Act.

11 The information provided by the Tax Commissioner shall  
12 indicate only the names and addresses of the hotels located within  
13 the requesting county for which lodging sales tax returns have been  
14 filed for a specified period and the fact that lodging sales taxes  
15 remitted by or on behalf of the hotel have constituted a portion of  
16 the total sum remitted by the state to the county for a specified  
17 period under the provisions of the Nebraska Visitors Development  
18 Act. No additional information shall be revealed.

19 (11)(a) Notwithstanding the provisions of subsection (7)  
20 of this section, the Tax Commissioner shall, upon written request  
21 by the Legislative Performance Audit Committee, make tax returns  
22 and tax return information open to inspection by or disclosure to  
23 Legislative Performance Audit Section employees for the purpose of  
24 and to the extent necessary in making an audit of the Department of  
25 Revenue pursuant to section 50-1205. Confidential tax returns and  
26 tax return information shall be audited only upon the premises of  
27 the Department of Revenue. All audit workpapers pertaining to the  
1 audit of the Department of Revenue shall be stored in a secure

2 place in the Department of Revenue.  
3 (b) No employee of the Legislative Performance Audit  
4 Section shall disclose to any person, other than another  
5 Legislative Performance Audit Section employee whose official  
6 duties require such disclosure or as provided in subsections (2)  
7 and (3) of section 50-1213, any return or return information  
8 described in the Nebraska Revenue Act of 1967 in a form which can  
9 be associated with or otherwise identify, directly or indirectly, a  
10 particular taxpayer.

11 (c) Any person who violates the provisions of this  
12 subsection shall be guilty of a Class I misdemeanor. For purposes  
13 of this subsection, employee includes a former Legislative  
14 Performance Audit Section employee.

15 (12) For purposes of subsections (11) and (12) of this  
16 section:

17 (a) Disclosures means the making known to any person in  
18 any manner a tax return or return information;

19 (b) Return information means:

20 (i) A taxpayer's identification number and (A) the  
21 nature, source, or amount of his or her income, payments, receipts,  
22 deductions, exemptions, credits, assets, liabilities, net worth,  
23 tax liability, tax withheld, deficiencies, overassessments, or tax  
24 payments, whether the taxpayer's return was, is being, or will be  
25 examined or subject to other investigation or processing or (B) any  
26 other data received by, recorded by, prepared by, furnished to, or  
27 collected by the Tax Commissioner with respect to a return or the  
1 determination of the existence or possible existence of liability  
2 or the amount of liability of any person for any tax, penalty,  
3 interest, fine, forfeiture, or other imposition or offense; and

4 (ii) Any part of any written determination or any  
5 background file document relating to such written determination;  
6 and

7 (c) Tax return or return means any tax or information  
8 return or claim for refund required by, provided for, or permitted  
9 under sections 77-2701 to 77-2713 which is filed with the Tax  
10 Commissioner by, on behalf of, or with respect to any person and  
11 any amendment or supplement thereto, including supporting  
12 schedules, attachments, or lists which are supplemental to or part  
13 of the filed return.

14 (13) In all proceedings under the Nebraska Revenue Act of  
15 1967, the Tax Commissioner may act for and on behalf of the people  
16 of the State of Nebraska. The Tax Commissioner in his or her  
17 discretion may waive all or part of any penalties provided by the  
18 provisions of such act, but may not waive the minimum interest on  
19 delinquent taxes specified in section 45-104.02, as such rate may  
20 from time to time be adjusted, except interest on use taxes  
21 voluntarily reported by an individual.

22 ~~(12)(a)~~ (14)(a) The purpose of this subsection is to set  
23 forth the state's policy for the protection of the confidentiality

24 rights of all participants in the system operated pursuant to the  
25 streamlined sales and use tax agreement and of the privacy  
26 interests of consumers who deal with model 1 sellers.

27 (b) For purposes of this subsection:

1 (i) Anonymous data means information that does not  
2 identify a person;

3 (ii) Confidential taxpayer information means all  
4 information that is protected under a member state's laws,  
5 regulations, and privileges; and

6 (iii) Personally identifiable information means  
7 information that identifies a person.

8 (c) The state agrees that a fundamental precept for model  
9 1 sellers is to preserve the privacy of consumers by protecting  
10 their anonymity. With very limited exceptions, a certified service  
11 provider shall perform its tax calculation, remittance, and  
12 reporting functions without retaining the personally identifiable  
13 information of consumers.

14 (d) The governing board of the member states in the  
15 streamlined sales and use tax agreement may certify a certified  
16 service provider only if that certified service provider certifies  
17 that:

18 (i) Its system has been designed and tested to ensure  
19 that the fundamental precept of anonymity is respected;

20 (ii) Personally identifiable information is only used and  
21 retained to the extent necessary for the administration of model 1  
22 with respect to exempt purchasers;

23 (iii) It provides consumers clear and conspicuous notice  
24 of its information practices, including what information it  
25 collects, how it collects the information, how it uses the  
26 information, how long, if at all, it retains the information, and  
27 whether it discloses the information to member states. Such notice  
1 shall be satisfied by a written privacy policy statement accessible  
2 by the public on the web site of the certified service provider;

3 (iv) Its collection, use, and retention of personally  
4 identifiable information is limited to that required by the member  
5 states to ensure the validity of exemptions from taxation that are  
6 claimed by reason of a consumer's status or the intended use of the  
7 goods or services purchased; and

8 (v) It provides adequate technical, physical, and  
9 administrative safeguards so as to protect personally identifiable  
10 information from unauthorized access and disclosure.

11 (e) The state shall provide public notification to  
12 consumers, including exempt purchasers, of the state's practices  
13 relating to the collection, use, and retention of personally  
14 identifiable information.

15 (f) When any personally identifiable information that has  
16 been collected and retained is no longer required for the purposes  
17 set forth in subdivision ~~(12)(d)(iv)~~ (14)(d)(iv) of this section,  
18 such information shall no longer be retained by the member states.

- 19 (g) When personally identifiable information regarding an  
 20 individual is retained by or on behalf of the state, it shall  
 21 provide reasonable access by such individual to his or her own  
 22 information in the state's possession and a right to correct any  
 23 inaccurately recorded information.
- 24 (h) If anyone other than a member state, or a person  
 25 authorized by that state's law or the agreement, seeks to discover  
 26 personally identifiable information, the state from whom the  
 27 information is sought should make a reasonable and timely effort to  
 1 notify the individual of such request.
- 2 (i) This privacy policy is subject to enforcement by the  
 3 Attorney General.
- 4 (j) All other laws and regulations regarding the  
 5 collection, use, and maintenance of confidential taxpayer  
 6 information remain fully applicable and binding. Without  
 7 limitation, this subsection does not enlarge or limit the state's  
 8 authority to:
- 9 (i) Conduct audits or other reviews as provided under the  
 10 agreement and state law;
- 11 (ii) Provide records pursuant to the federal Freedom of  
 12 Information Act, disclosure laws with governmental agencies, or  
 13 other regulations;
- 14 (iii) Prevent, consistent with state law, disclosure of  
 15 confidential taxpayer information;
- 16 (iv) Prevent, consistent with federal law, disclosure or  
 17 misuse of federal return information obtained under a disclosure  
 18 agreement with the Internal Revenue Service; and
- 19 (v) Collect, disclose, disseminate, or otherwise use  
 20 anonymous data for governmental purposes."
- 21 2. On page 4, line 13; and page 6, line 22, after  
 22 "50-1213" insert "subsection (11) of section 77-2711".
- 23 3. On page 8, line 4, after "in" insert "subsection (11)  
 24 of section 77-2711 and".
- 25 4. On page 16, line 19, before the comma insert "or as  
 26 provided in subsections (2) and (3) of section 50-1213".
- 27 5. On page 26, line 3, after the first comma insert  
 1 "77-2711".
- 2 6. Renumber the remaining sections accordingly.

Senator Smith filed the following amendment to LB 588:  
 AM0942

- 1 1. Insert the following new section:  
 2 "Sec. 4. Section 50-1205.01, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 50-1205.01. ~~(4) Except as provided in subsections (2)~~  
 5 ~~and (3) of this section, performance~~ Performance audits done under  
 6 the terms of the Legislative Performance Audit Act shall be  
 7 conducted in accordance with the ~~general~~ generally accepted  
 8 government auditing standards for performance audits, the Field

9 Work Standards for Performance Audits, and the Reporting Standards  
 10 for Performance Audits contained in the Government Auditing  
 11 Standards (2003 Revision), published by the Comptroller General of  
 12 the United States, General Accounting Office. Prior to conducting  
 13 a performance audit involving the Department of Revenue, any  
 14 external quality control review required by the generally accepted  
 15 government auditing standards shall have been implemented and  
 16 completed.

17 ~~(2) General standards relating to continuing education~~  
 18 ~~for those involved in performance audits may be met when time and~~  
 19 ~~budgetary constraints allow.~~

20 ~~(3) General standards relating to external quality~~  
 21 ~~control review may be implemented at the committee's discretion."~~

22 2. On page 26, line 2, strike "50-1205" and insert  
 23 "50-1205.01".

24 3. Renumber the remaining sections accordingly.

Senator Beutler filed the following amendment to LB 361:  
 AM0980

(Amendments to Standing Committee amendments, AM0523)

- 1 1. On page 12, line 2, strike "whatsoever" and insert
- 2 "in connection with an investigation of a particular crime".

Senator Raikes filed the following amendment to LB 38:  
 AM0945

(Amendments to Standing Committee amendments, AM0567)

- 1 1. Insert the following new section:
- 2 "Sec. 3. Section 85-1503, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 85-1503. For purposes of sections 85-1501 to 85-1540,
- 5 unless the context otherwise requires:
- 6 (1) Community college shall mean an educational
- 7 institution operating and offering programs pursuant to such
- 8 sections;
- 9 (2) Community college area shall mean an area established
- 10 by section 85-1504;
- 11 (3) Board shall mean the Community College Board of
- 12 Governors for each community college area;
- 13 (4) Full-time equivalent student shall mean, in the
- 14 aggregate, the equivalent of a registered student who in a
- 15 twelve-month period is enrolled in (a) thirty semester credit hours
- 16 or forty-five quarter credit hours of classroom, laboratory,
- 17 clinical, practicum, or independent study course work or
- 18 cooperative work experience or (b) nine hundred contact hours of
- 19 classroom or laboratory course work for which credit hours are not
- 20 offered or awarded. Avocational and recreational community service
- 21 programs or courses shall not be included in determining full-time
- 22 equivalent students or student enrollment;
- 23 (5) Contact hour shall mean an educational activity

1 consisting of sixty minutes minus break time and required time to  
2 change classes;

3 (6) Credit hour shall mean the unit used to ascertain the  
4 educational value of course work offered by the institution to  
5 students enrolling for such course work, earned by such students  
6 upon successful completion of such course work, and for which  
7 tuition is charged. A credit hour may be offered and earned in any  
8 of several instructional delivery systems, including, but not  
9 limited to, classroom hours, laboratory hours, clinical hours,  
10 practicum hours, cooperative work experience, and independent  
11 study. A credit hour shall consist of a minimum of: (a) Ten  
12 quarter or fifteen semester classroom contact hours per term of  
13 enrollment; (b) twenty quarter or thirty semester academic transfer  
14 and academic support laboratory hours per term of enrollment; (c)  
15 thirty quarter or forty-five semester vocational laboratory hours  
16 per term of enrollment; (d) thirty quarter or forty-five semester  
17 clinical or practicum contact hours per term of enrollment; or (e)  
18 forty quarter or sixty semester cooperative work experience contact  
19 hours per term of enrollment. An institution may include in a  
20 credit hour more classroom, laboratory, clinical, practicum, or  
21 cooperative work experience hours than the minimum required in this  
22 subdivision. The institution shall publish in its catalog, or  
23 otherwise make known to the student in writing prior to the student  
24 enrolling or paying tuition for any courses, the number of credit  
25 or contact hours offered in each such course. Such published  
26 credit or contact hour offerings shall be used to determine whether  
27 a student is a full-time equivalent student pursuant to subdivision  
1 (4) of this section;

2 (7) Classroom hour shall mean a minimum of fifty minutes  
3 of formalized instruction on campus or off campus in which a  
4 qualified instructor applying any combination of instructional  
5 methods such as lecture, directed discussion, demonstration, or the  
6 presentation of audiovisual materials is responsible for providing  
7 an educational experience to students;

8 (8) Laboratory hour shall mean a minimum of fifty minutes  
9 of educational activity on campus or off campus in which students  
10 conduct experiments, perfect skills, or practice procedures under  
11 the direction of a qualified instructor;

12 (9) Clinical hour shall mean a minimum of fifty minutes  
13 of educational activity on campus or off campus during which the  
14 student is assigned practical experience under constant supervision  
15 at a health-related agency, receives individual instruction in the  
16 performance of a particular function, and is observed and critiqued  
17 in the repeat performance of such function. Adjunct professional  
18 personnel, who may or may not be paid by the college, may be used  
19 for the directed supervision of students and for the delivery of  
20 part of the didactic phase of the experience;

21 (10) Practicum hour shall mean a minimum of fifty minutes  
22 of educational activity on campus or off campus during which the

23 student is assigned practical experiences, receives individual  
24 instruction in the performance of a particular function, and is  
25 observed and critiqued by an instructor in the repeat performance  
26 of such function. Adjunct professional personnel, who may or may  
27 not be paid by the college, may be used for the directed

1 supervision of the students;

2 (11) Cooperative work experience shall mean an internship  
3 or on-the-job training, designed to provide specialized skills and  
4 educational experiences, which is coordinated, supervised,  
5 observed, and evaluated by qualified college staff or faculty and  
6 may be completed on campus or off campus, depending on the nature  
7 of the arrangement;

8 (12) Independent study shall mean an arrangement between  
9 an instructor and student in which the instructor is responsible  
10 for assigning work activity or skill objectives to the student,  
11 personally providing needed instruction, assessing the student's  
12 progress, and assigning a final grade. Credit hours shall be  
13 assigned according to the practice of assigning credits in similar  
14 courses;

15 (13) Full-time equivalent student enrollment total shall  
16 mean the total of full-time equivalent students enrolled in a  
17 community college in any fiscal year;

18 (14) General academic transfer course shall mean a course  
19 offering in a one-year or two-year degree-credit program, at the  
20 associate degree level or below, intended by the offering  
21 institution for transfer into a baccalaureate program. The  
22 completion of the specified courses in a general academic transfer  
23 program may include the award of a formal degree;

24 (15) Applied technology or occupational course shall mean  
25 a course offering in an instructional program, at the associate  
26 degree level or below, intended to prepare individuals for  
27 immediate entry into a specific occupation or career. The primary  
1 intent of the institutions offering an applied technology or  
2 occupational program shall be that such program is for immediate  
3 job entry. The completion of the specified courses in an applied  
4 technology or occupational program may include the award of a  
5 formal degree, diploma, or certificate;

6 (16) Academic support course shall mean a general  
7 education academic course offering which may be necessary to  
8 support an applied technology or occupational program;

9 (17) Class 1 course shall mean an applied technology or  
10 occupational course offering which requires the use of equipment,  
11 facilities, or instructional methods easily adaptable for use in a  
12 general academic transfer program classroom or laboratory;

13 (18) Class 2 course shall mean an applied technology or  
14 occupational course offering which requires the use of specialized  
15 equipment, facilities, or instructional methods not easily  
16 adaptable for use in a general academic transfer program classroom  
17 or laboratory;

- 18 (19) Reported aid equivalent student shall mean a  
19 full-time equivalent student subject to the following limitations:  
20 (a) The number of credit hours which can be counted for  
21 each student per semester or quarter shall be limited to eighteen  
22 credit hours;  
23 (b) For students enrolled for more than eighteen credit  
24 hours, credit hours for each course shall be prorated as the  
25 eighteen-credit-hour limit is to the student's total credit hours  
26 for the semester or quarter;  
27 (c) The credit-hour limit for a special instructional  
1 term shall be prorated on the same ratio that a fifteen-week term  
2 is to eighteen semester credit hours or a ten-week term is to  
3 eighteen quarter credit hours; and  
4 (d) The number of credit and contact hours which shall be  
5 counted by any community college area in which a tribally  
6 controlled community college is located shall include credit and  
7 contact hours awarded by such tribally controlled community college  
8 to students for which such institution received no federal  
9 reimbursement pursuant to the Tribally Controlled Community College  
10 Assistance Act, ~~Public Law 95-471 as reauthorized by Public Law~~  
11 ~~99-428~~ 25 U.S.C. 1801;  
12 (20) Reported aid equivalent total shall mean the total  
13 of all reported aid equivalents accumulated in a community college  
14 area in any fiscal year;  
15 (21) Reimbursable educational unit shall mean a reported  
16 aid equivalent student multiplied by (a) for a general academic  
17 transfer course or an academic support course, a factor of one, (b)  
18 for a Class 1 course, a factor of one and fifty-hundredths, (c) for  
19 a Class 2 course, a factor of one and eight-tenths for fiscal year  
20 1995-96 and for the three-year averages, a factor of one and  
21 nine-tenths for fiscal year 1996-97 and for the three-year  
22 averages, and a factor of two for fiscal year 1997-98 and each  
23 fiscal year thereafter and for the three-year averages, (d) for a  
24 tribally controlled community college general academic transfer  
25 course or academic support course, a factor of two, (e) for a  
26 tribally controlled community college Class 1 course, a factor of  
27 three, and (f) for a tribally controlled community college Class 2  
1 course, a factor of three and six-tenths for fiscal year 1995-96  
2 and for the three-year averages, a factor of three and eight-tenths  
3 for fiscal year 1996-97 and for the three-year averages, and a  
4 factor of four for fiscal year 1997-98 and each fiscal year  
5 thereafter and for the three-year averages;  
6 (22) Reimbursable educational unit total shall mean the  
7 total of all reimbursable educational units accumulated in a  
8 community college area in any fiscal year;  
9 (23) Special instructional term shall mean any term which  
10 is less than fifteen weeks for community colleges using semesters  
11 or ten weeks for community colleges using quarters;  
12 (24) Statewide reimbursable reported aid equivalent total

13 shall mean the total of all reimbursable reported aid equivalents  
 14 accumulated statewide for the community college in any fiscal year;  
 15 ~~(25)~~ Tribally controlled community college shall mean an  
 16 educational institution operating and offering programs pursuant to  
 17 the Tribally Controlled Community College Assistance Act, ~~Public~~  
 18 ~~Law 95-471 as reauthorized by Public Law 99-428~~ 25 U.S.C. 1801; and  
 19 ~~(25)~~ (26) Tribally controlled community college state aid  
 20 amount shall mean the quotient of the amount of state aid to be  
 21 distributed pursuant to sections 85-1536 and 85-1537 for the  
 22 current fiscal year to a community college area in which a tribally  
 23 controlled community college is located divided by the average of  
 24 the reimbursable educational unit totals for such community college  
 25 area for the immediately preceding three fiscal years, with such  
 26 quotient then multiplied by the average reimbursable educational  
 27 units derived pursuant to subdivision (19)(d) of this section for  
 1 the immediately preceding three fiscal years."  
 2 2. On page 5, line 27, strike the second "of" and insert  
 3 "valuation per statewide reimbursable reported aid equivalent total  
 4 as defined in section 85-1503 for".  
 5 3. On page 6, line 2, strike "one-half" and insert "one"  
 6 and strike "through 2008-09" and insert "and 2006-07".  
 7 4. On page 11, line 8, after "the" insert "statewide";  
 8 in line 11 strike "one-half" and insert "one"; in line 12 strike  
 9 "through 2008-09" and insert "and 2006-07"; and strike beginning  
 10 with "For" in line 14 through the period in line 18.  
 11 5. On page 13, line 23, after the period insert "For  
 12 purposes of aid distribution beginning with fiscal year 2006-07 and  
 13 for each fiscal year thereafter, the revenue generated by up to  
 14 one-half cent of the additional levy authorized under subdivision  
 15 (2)(c) of section 85-1517 each fiscal year shall be added to the  
 16 community college area's base year revenue".  
 17 6. On page 15, line 9, strike "section" and insert  
 18 "sections 85-1503 and".  
 19 7. Renumber the remaining sections accordingly.

Senator D. Pederson filed the following amendment to LB 47:  
 FA132

On page 2, line 28, after the word "professorship" insert, "provided, that any such gift from the University of Nebraska Foundation or any of the Nebraska State College foundations must originate from a gift or gifts received by such foundation on or after June 1, 2005."

On page 3, line 9, after the word "position" insert, "provided, that any such gift from the University of Nebraska Foundation or any of the Nebraska State College foundations must originate from a gift or gifts received by such foundation on or after June 1, 2005."

Senator Beutler filed the following amendment to LB 82:  
 AM0976

(Amendments to AM0902)

- 1 1. On page 3, line 4, after "disposition" insert "by
- 2 sale or other manner ninety days after the date of towing".

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Redfield asked unanimous consent to have her name added as cointroducer to LB 121. No objections. So ordered.

Senator Mines asked unanimous consent to have his name added as cointroducer to LB 132. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 40 fourth-grade students and teachers from Minne Lusa Elementary School, Omaha; 9 fourth-, fifth-, and sixth-grade students and teachers from Riverdale; and Claire and Jackie Spahn from Lincoln.

### **MOTION - Adjournment**

Senator D. Pederson moved to adjourn. The motion prevailed with 16 ayes, 11 nays, 19 present and not voting, and 3 excused and not voting, and at 3:31 p.m., the Legislature adjourned until 9:00 a.m., Wednesday, March 30, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**FIFTY-SECOND DAY - MARCH 30, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FIFTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, March 30, 2005

**PRAYER**

The prayer was offered by Senator Langemeier.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Brashear who was excused; and Senators Byars, Combs, Heidemann, Jensen, Kruse, Landis, McDonald, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-first day was approved.

**SELECT COMMITTEE REPORTS****Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 39, 121, 131, 144, 234, 242, 299, 352, 485, 492, 516, 668, 684, and 684A.

ER9019

Enrollment and Review Change to LB 121

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, lines 1 and 7, "sections" has been struck and "section" inserted; and in line 2 "and 37-407" has been struck.

(Signed) Michael Flood, Chairperson

**AMENDMENT - Print in Journal**

Senator Byars filed the following amendment to LB 382:  
AM0951

(Amendments to Standing Committee amendments, AM0702)

- 1 1. Insert the following new sections:
- 2 "Sec. 13. Original section 2, Legislative Bill 306,
- 3 Ninety-ninth Legislature, First Session, 2005, is amended to read:
- 4 An applicant for an initial license to practice a
- 5 profession which is authorized to prescribe controlled substances
- 6 ~~as determined by the department~~ shall be subject to a criminal
- 7 background check. The applicant shall submit with the application
- 8 a full set of fingerprints which shall be forwarded to the Nebraska
- 9 State Patrol to be submitted to the Federal Bureau of Investigation
- 10 for a national criminal history record information check. The
- 11 applicant shall authorize release of the results of the national
- 12 criminal history record information check to the department. The
- 13 applicant shall pay the actual cost of the fingerprinting and
- 14 criminal background check. This section shall not apply to
- 15 dentists who are applicants for temporary practice rights under
- 16 subdivision (5) of section 71-183.01 or to physicians and surgeons
- 17 who are applicants for temporary practice rights under subdivision
- 18 (17) of section 71-1,103.
- 19 Sec. 14. Sections 13 and 15 of this act become operative
- 20 three calendar months after the adjournment of this legislative
- 21 session. The other sections of this act become operative on their
- 22 effective date.
- 23 Sec. 15. Original section 2, Legislative Bill 306,
- 1 Ninety-ninth Legislature, First Session, 2005, is repealed.".
- 2 2. Renumber the remaining sections accordingly.

**GENERAL FILE**

**LEGISLATIVE BILL 361.** The third Standing Committee amendment is as follows:

(FA127 consists of Sections 25 and 26 of the Standing Committee amendment.)

Senator Brown renewed her pending amendment, AM0838, found on page 979, to the third Standing Committee amendment.

The Brown amendment was adopted with 38 ayes, 0 nays, 4 present and not voting, and 7 excused and not voting.

The third Standing Committee amendment, as amended, was adopted with 34 ayes, 0 nays, 8 present and not voting, and 7 excused and not voting.

The fourth Standing Committee amendment is as follows:

(FA128 consists of Sections 22 and 29 of the Standing Committee

amendment.)

Senator Friend renewed his pending amendment, AM0903, found on page 976, to the fourth Standing Committee amendment.

The Friend amendment was adopted with 41 ayes, 0 nays, 6 present and not voting, and 2 excused and not voting.

Senator Friend withdrew his pending amendment, AM0907, found on page 989.

Senator Beutler withdrew his pending amendment, AM0980, found on page 1024.

Senator Beutler offered the following amendment to the fourth Standing Committee amendment:

FA133

(Amendments to Standing Committee amendments, AM0523)

- 1 1. On page 12, line 2, strike "whatsoever" and insert
- 2 "in connection with an investigation of a crime".

The Beutler amendment was adopted with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

The fourth Standing Committee amendment, as amended, was adopted with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 401.** Title read. Considered.

The Standing Committee amendment, AM0369, found on page 493, was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 42 ayes, 0 nays, 4 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 753.** Title read. Considered.

The Standing Committee amendment, AM0643, found on page 663, was considered.

**SENATOR SCHIMEK PRESIDING**

The Standing Committee amendment was adopted with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 161.** Title read. Considered.

The Standing Committee amendment, AM0318, found on page 463, was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Senator Friend offered the following amendment:

AM0978

- 1 1. Insert the following new sections:
- 2 "Section 1. Section 16-611, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 16-611. (1) Upon the vacation of any street or alley by
- 5 the city, the title to such property shall vest in the owners of
- 6 the abutting property and become a part of such property, one-half
- 7 on each side thereof, unless the city reserves title in the
- 8 ordinance vacating such street or alley. If title is retained by
- 9 the city, such property may be sold, conveyed, exchanged, or leased
- 10 upon such terms and conditions as shall be deemed in the best
- 11 interests of the city.
- 12 (2) ~~When an alley is vacated by the city, the title to~~
- 13 ~~such property shall vest in the owners of the abutting property and~~
- 14 ~~become a part of such property, one half on each side thereof,~~
- 15 ~~unless the alley is taken wholly from one or more lots, in which~~
- 16 ~~case the title to such property shall vest in the owner of the~~
- 17 ~~abutting property and become a part of such property.~~
- 18 (3) When a portion of a street or alley is vacated only
- 19 on one side of the center thereof, the title to such property shall
- 20 vest in the owner of the abutting property and become part of such
- 21 property, unless the city reserves title in the ordinance vacating
- 22 a portion of such street or alley. If title is retained by the
- 23 city, such property may be sold, conveyed, exchanged, or leased
- 24 upon such terms and conditions as shall be deemed in the best
- 1 interests of the city.
- 2 (4) (3) When the city vacates all or any portion of a
- 3 street or alley, the city shall, within thirty days after the
- 4 effective date of the vacation, file a certified copy of the
- 5 vacating ordinance with the register of deeds for the county in
- 6 which the vacated property is located to be indexed against all
- 7 affected lots.
- 8 (4) The title to property vacated pursuant to this
- 9 section shall be subject to the following: (a) There is reserved
- 10 to the city the right to maintain, operate, repair, and renew
- 11 sewers now existing there and (b) there is reserved to the city,
- 12 any public utilities, and any cable television systems the right to
- 13 maintain, repair, renew, and operate installed water mains, gas
- 14 mains, pole lines, conduits, electrical transmission lines, sound

15 and signal transmission lines, and other similar services and  
16 equipment and appurtenances above, on, and below the surface of the  
17 ground for the purposes of serving the general public or the  
18 abutting properties, including such lateral connections or branch  
19 lines as may be ordered or permitted by the city or such public  
20 utility or cable television system and to enter upon the premises  
21 to accomplish such purposes at any and all reasonable times.

22 Sec. 4. Section 17-522, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 17-522. ~~Second-class cities and villages shall have the~~  
25 ~~power to~~ (1) The mayor and city council or board of trustees may  
26 construct and to repair sidewalks or cause the construction and  
27 repair of sidewalks in such manner as the mayor and city council or  
1 board of trustees deems necessary and assess the expense thereof on  
2 the property in front of which such construction or repairs are  
3 made, after having given notice ~~of their intention to do so~~ (1) (a)  
4 by publication in one issue of a legal newspaper of general  
5 circulation in such city or village, and (2) (b) by either causing  
6 a written notice to be served upon the occupant in possession of  
7 the property involved or to be posted upon such premises ten days  
8 prior to the commencement of such construction or repair. The  
9 powers conferred under this section are in addition to those  
10 provided in sections 17-509 to 17-521; and may be exercised without  
11 creating an improvement district.

12 (2) If the owner of any property abutting any street or  
13 avenue, or part thereof, fails to construct or repair any sidewalk  
14 in front of the owner's property within the time and in the manner  
15 as directed and requested by the mayor and council or board of  
16 trustees, after having received due notice to do so, the mayor and  
17 council or board of trustees may cause the sidewalk to be  
18 constructed or repaired and may assess the cost thereof against the  
19 property.

20 Sec. 5. Section 17-558, Revised Statutes Supplement,  
21 2004, is amended to read:

22 17-558. ~~Second-class cities~~ (1) Cities of the second  
23 class and villages shall have power to open, widen, or otherwise  
24 improve or vacate any street, avenue, alley, or lane within the  
25 limits of the city or village; and also to create, open, and  
26 improve any new street, avenue, alley, or lane. All damages  
27 sustained by the citizens of the city or village, or by the owners  
1 of the property therein, shall be ascertained in such manner as  
2 shall be provided by ordinance.

3 (2) Whenever any street, avenue, alley, or lane shall be  
4 vacated, the same shall revert to the owners of the abutting real  
5 estate, one-half on each side thereof and become a part of such  
6 property, unless the city or village reserves title in the  
7 ordinance vacating such street or alley. If title is retained by  
8 the city or village, such property may be sold, conveyed,  
9 exchanged, or leased upon such terms and conditions as shall be

10 deemed in the best interests of the city or village.

11 (3) When a portion of a street, avenue, alley, or lane is  
12 vacated only on one side of the center thereof, the title to such  
13 land shall vest in the owner of the abutting property and become a  
14 part of such property, unless the city or village reserves title in  
15 the ordinance vacating a portion of such street or alley. If title  
16 is retained by the city or village, such property may be sold,  
17 conveyed, exchanged, or leased upon such terms and conditions as  
18 shall be deemed in the best interests of the city or village.

19 (4) When the city or village vacates all or any portion  
20 of a street, avenue, alley, or lane, the city or village shall,  
21 within thirty days after the effective date of the vacation, file a  
22 certified copy of the vacating ordinance or resolution with the  
23 register of deeds for the county in which the vacated property is  
24 located to be indexed against all affected lots.

25 (5) The title to property vacated pursuant to this  
26 section shall be subject to the following: (a) There is reserved  
27 to the city or village the right to maintain, operate, repair, and  
1 renew sewers now existing there and (b) there is reserved to the  
2 city or village, any public utilities, and any cable television  
3 systems the right to maintain, repair, renew, and operate installed  
4 water mains, gas mains, pole lines, conduits, electrical  
5 transmission lines, sound and signal transmission lines, and other  
6 similar services and equipment and appurtenances above, on, and  
7 below the surface of the ground for the purposes of serving the  
8 general public or the abutting properties, including such lateral  
9 connections or branch lines as may be ordered or permitted by the  
10 city of village or such public utility or cable television system  
11 and to enter upon the premises to accomplish such purposes at any  
12 and all reasonable times."

13 2. Renumber the remaining sections and correct the  
14 repealer accordingly.

The Friend amendment was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Senator Price offered the following amendment:  
AM0989

- 1 1. Insert the following new section:
- 2 "Section 1. Section 15-201, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 15-201. Cities of the primary class shall be bodies
- 5 corporate and politic and shall have power:
- 6 (1) To sue and be sued;
- 7 (2) To purchase, lease, or otherwise acquire as
- 8 authorized by their home rule charters or state statutes real
- 9 estate or personal property within or without the limits of the
- 10 city for its use for a public purpose;
- 11 (3) To purchase real or personal property upon sale for

12 general or special taxes or assessments and to lease, sell, convey,  
13 or exchange such property so purchased;  
14 (4) To sell, convey, exchange, or lease real or personal  
15 property owned by the city in such manner and upon such terms and  
16 conditions as shall be deemed in the best interests of the city as  
17 authorized by its home rule charter, except that real estate owned  
18 by the city may be conveyed without consideration to the State of  
19 Nebraska for state armory sites or, if acquired for state armory  
20 sites, shall be conveyed in the manner strictly as provided in  
21 sections 18-1001 to 18-1006;

22 (5) To make contracts and do all acts relative to the  
23 property and concerns of the city necessary or incident or  
24 appropriate to the exercise of its corporate powers, including  
1 powers granted by the Constitution of Nebraska or exercised by or  
2 pursuant to a home rule charter adopted pursuant thereto and  
3 including the power to execute such bonds and obligations on the  
4 part of the city as may be required in judicial proceedings;

5 (6) To purchase, construct, and otherwise acquire, own,  
6 maintain, and operate public service and public utility property  
7 and facilities within and without the limits of the city and to  
8 redeem such property from prior encumbrance in order to protect or  
9 preserve the interest of the city therein and to exercise such  
10 other and further powers as may be necessary or incident or  
11 appropriate to the powers of such city, including powers granted by  
12 the Constitution of Nebraska or exercised by or pursuant to a home  
13 rule charter adopted pursuant thereto. If the public service or  
14 public utility property or facility is located outside the limits  
15 of the city but within the zoning jurisdiction of another political  
16 subdivision, the city and the other political subdivision may by  
17 interlocal agreement provide or exchange services, including  
18 utility services, relating to the property or facilities; ~~and~~

19 (7) To receive grants, devises, donations, and bequests  
20 of money or property for public purposes in trust or otherwise; and

21 (8) To provide for the planting, maintenance, protection,  
22 and removal of shade, ornamental, and other useful trees upon the  
23 streets or boulevards; to assess the cost thereof, when  
24 appropriate, as a special assessment against the property specially  
25 benefited to the extent of benefits received; and to provide by  
26 general ordinance for the manner in which such benefits are to be  
27 measured and the assessments calculated. The city may create  
1 districts by ordinance which shall designate the property within  
2 the district to be benefited.

3 The powers shall be exercised by the mayor and council of  
4 the city except in cases otherwise specified by law. The mayor and  
5 council shall adopt a corporate seal for the use of any officer,  
6 board, or agent of the city whose duties require an official  
7 seal."

8 2. On page 7, line 4, after "sections" insert "15-201,".

9 3. Renumber the remaining sections accordingly.

**SENATOR CUDABACK PRESIDING**

Senator Price moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Price requested a roll call vote on her amendment.

Voting in the affirmative, 19:

Aguilar	Cudaback	Janssen	Landis	Price
Beutler	Foley	Jensen	Louden	Thompson
Brown	Friend	Kopplin	Pedersen, Dw.	Wehrbein
Connealy	Howard	Kruse	Preister	

Voting in the negative, 9:

Cornett	Fischer	Langemeier	Schimek	Stuthman
Erdman	Hudkins	Redfield	Stuhr	

Present and not voting, 16:

Baker	Chambers	Johnson	Raikes
Bourne	Cunningham	Kremer	Schrock
Burling	Flood	Pahls	Smith
Byars	Heidemann	Pederson, D.	Synowiecki

Excused and not voting, 5:

Brashear	Combs	Engel	McDonald	Mines
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The Price amendment lost with 19 ayes, 9 nays, 16 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for review with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

**NOTICE OF COMMITTEE HEARING****Education**

Room 1525

Tuesday, April 12, 2005

8:30 a.m.

Joyce Simmons - Coordinating Commission for Postsecondary Education

(Signed) Ron Raikes, Chairperson

**AMENDMENT - Print in Journal**

Senators Fischer, Bourne, and Schimek filed the following amendment to  
**LB 373:**

**AM0984**

(Amendments to Standing Committee amendments, AM0573)

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Whenever an agency proposes to adopt, amend,
- 4 or repeal a rule or regulation, (1) at least thirty days before the
- 5 public hearing, when notice of a proposed rule or regulation is
- 6 sent out, or (2) at the same time the agency applies to the
- 7 Governor for a waiver of the notice of public hearing under section
- 8 84-907, the agency shall provide to the Governor for review (a) a
- 9 description of the proposed rule or regulation and the entity or
- 10 entities it will impact, (b) an explanation of the necessity of the
- 11 proposed rule or regulation, including the identification of the
- 12 authorizing statute or legislative bill, (c) a statement that the
- 13 proposed rule or regulation is consistent with legislative intent,
- 14 (d) a statement indicating whether the proposed rule or regulation
- 15 is the result of a state mandate on a local governmental
- 16 subdivision and if the mandate is funded, (e) a statement
- 17 indicating if the proposed rule or regulation is the result of a
- 18 federal mandate on state government or on a local governmental
- 19 subdivision and if the mandate is funded, (f) a description,
- 20 including an estimated quantification, of the fiscal impact on
- 21 state agencies, political subdivisions, and regulated persons, (g)
- 22 a statement that the agency will solicit public comment on the
- 23 proposed rule or regulation before the public hearing, and (h) a
- 1 statement indicating whether or not the agency has utilized the
- 2 negotiated rulemaking process as provided for in the Negotiated
- 3 Rulemaking Act with respect to the proposed rule or regulation.
- 4 Sec. 2. Section 84-906, Reissue Revised Statutes of
- 5 Nebraska, is amended to read:
- 6 84-906. (1) No rule or regulation of any agency shall be
- 7 valid as against any person until five days after such rule or
- 8 regulation has been filed with the Secretary of State. No rule or
- 9 regulation required under the Administrative Procedure Act to be
- 10 filed with the Secretary of State shall remain valid as against any
- 11 person until the certified copy of the rule or regulation has been
- 12 so filed on the date designated and in the form prescribed by the
- 13 Secretary of State. The filing of any rule or regulation shall
- 14 give rise to a rebuttable presumption that it was duly and legally
- 15 adopted.
- 16 (2) A rule or regulation adopted after August 1, 1994,
- 17 shall be invalid unless adopted in substantial compliance with the
- 18 provisions of the act, except that inadvertent failure to mail a
- 19 notice of the proposed rule or regulation to any person shall not

20 invalidate a rule or regulation.

21 (3) Any action to contest the validity of a rule or  
22 regulation on the grounds of its noncompliance with any provision  
23 of the act shall be commenced within four years after the effective  
24 date of the rule or regulation.

25 (4) The changes made to the act by Laws 1994, LB 446,  
26 shall not affect the validity or effectiveness of a rule or  
27 regulation adopted prior to August 1, 1994, or noticed for hearing  
1 prior to such date.

2 (5) The changes made to the act by Laws 2005, LB 373,  
3 shall not affect the validity or effectiveness of a rule or  
4 regulation adopted prior to October 1, 2005, or noticed for hearing  
5 prior to such date.

6 Sec. 3. Section 84-906.01, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 84-906.01. (1) An agency shall maintain an official  
9 rulemaking or regulationmaking record for each rule or regulation  
10 it adopts or proposes by publication of a notice. The record and  
11 materials incorporated by reference shall be available for public  
12 inspection and shall be maintained for at least four years after  
13 the effective date of the rule or regulation.

14 (2) The record shall contain:

15 (a) Copies of all publications with respect to the rule  
16 or regulation;

17 (b) Copies of any portions of the public rulemaking or  
18 regulationmaking docket containing entries relating to the rule or  
19 regulation;

20 (c) All written petitions, requests, submissions, and  
21 comments received by the agency and all other written materials  
22 prepared by or for the agency in connection with the proposal or  
23 adoption of the rule or regulation;

24 (d) Any official transcript of oral presentations made in  
25 a proceeding about the proposed rule or regulation or, if not  
26 transcribed, any tape recording or stenographic record of those  
27 presentations, and any memorandum prepared by the hearing officer  
1 summarizing the contents of those presentations;

2 (e) A copy of the rule or regulation and the concise  
3 explanatory statement filed with the Secretary of State;

4 (f) All petitions for adoption of, exceptions to,  
5 amendments of, or repeal or suspension of, the rule or regulation;

6 (g) A copy of any comments on the rule or regulation  
7 filed by a legislative committee; and

8 (h) A description, ~~but not necessarily a~~ including an  
9 estimated quantification, of the fiscal impact on state agencies,  
10 political subdivisions, and regulated persons.

11 (3) Upon judicial review, the record required by this  
12 section shall constitute the official agency rulemaking or  
13 regulationmaking record with respect to a rule or regulation.

14 Except as provided in section 84-907.04 or as otherwise required by

15 law, the agency rulemaking or regulationmaking record need not  
16 constitute the exclusive basis for agency action on that rule or  
17 regulation or for judicial review thereof.

18 Sec. 4. Section 84-907, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 84-907. No rule or regulation shall be adopted, amended,  
21 or repealed by any agency except after public hearing on the  
22 question of adopting, amending, or repealing such rule or  
23 regulation. Notice of such hearing shall be given at least thirty  
24 days prior thereto to the Secretary of State and by publication in  
25 a newspaper having general circulation in the state. All such  
26 hearings shall be open to the public. In addition to the  
27 requirements of section 84-906.01, draft copies or working copies  
1 of all rules and regulations to be adopted, amended, or repealed by  
2 any agency shall be available to the public in the office of the  
3 Secretary of State at the time of giving notice. The notice shall  
4 include: (1) A declaration of availability of such draft or work  
5 copies for public examination; (2) a short explanation of the  
6 purpose of the proposed rule or regulation or the reason for the  
7 amendment or repeal of the rule or regulation; and (3) a  
8 description, including an estimated ~~but not necessarily a~~  
9 quantification, of the fiscal impact on state agencies, political  
10 subdivisions, and persons being regulated or an explanation of  
11 where the description of the fiscal impact may be inspected and  
12 obtained. No person may challenge the validity of any rule or  
13 regulation, the adoption, amendment, or repeal of any rule or  
14 regulation, or any determination of the applicability of any rule  
15 or regulation on the basis of the explanation or description  
16 provided pursuant to ~~subdivision~~ subdivisions (2) and (3) of this  
17 section. Any agency adopting, amending, or repealing a rule or  
18 regulation may make written application to the Governor who may,  
19 upon receipt of a written showing of good cause, waive the notice  
20 of public hearing.

21 For purposes of this section, good cause shall include,  
22 but not be limited to, a showing by the agency that:

23 (a) Compliance with the public notice requirements of  
24 this section would result in extreme hardship on the citizens of  
25 this state;

26 (b) An emergency exists which must be remedied  
27 immediately; or

1 (c) A timely filing or publication of notice of a public  
2 hearing was prevented by some unforeseeable event beyond the  
3 immediate control of the agency and that the parties affected have  
4 not and will not suffer material injury as a result of the agency's  
5 action.

6 Whenever public notice is waived, the agency shall, so  
7 far as practicable, give notice to the public of the proposed rule  
8 or regulation change and of the rule or regulation as finally  
9 adopted or changed.

10 Sec. 5. Section 84-907.06, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 84-907.06. Whenever an agency proposes to adopt, amend,  
13 or repeal a rule or regulation, (1) at least thirty days before the  
14 public hearing, when notice of a proposed rule or regulation is  
15 sent out, or (2) at the same time the agency applies to the  
16 Governor for a waiver of the notice of public hearing, the agency  
17 shall send to the Executive Board of the Legislative Council (a) a  
18 copy of the hearing notice required by section 84-907, (b) if  
19 applicable, a draft copy of the rule or regulation, and (c) ~~if not~~  
20 ~~included in the hearing notice, a description but not necessarily a~~  
21 ~~quantification of the fiscal impact on state agencies, political~~  
22 ~~subdivisions, and persons being regulated~~ the information provided  
23 to the Governor pursuant to section 1 of this act.

24 Sec. 6. Section 84-907.07, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 84-907.07. The chairperson of the Executive Board of the  
27 Legislative Council or committee staff member of the board shall  
1 refer materials received pursuant to section 84-907.06 for review  
2 (1) to the chairperson of the standing committee of the Legislature  
3 which has subject matter jurisdiction over the issue involved in  
4 the rule or regulation or which has traditionally handled the issue  
5 and (2) if practicable, to the member of the Legislature who was  
6 the primary sponsor of the legislative bill that granted the agency  
7 the rulemaking authority if the member is still serving or, if the  
8 legislative bill was amended to include the rulemaking authority,  
9 to the primary sponsor of the amendment granting rulemaking  
10 authority if the member is still serving. The committee or  
11 committee chairperson of such standing committee of the Legislature  
12 having subject matter jurisdiction may submit a written or oral  
13 statement at the public hearing on the rule or regulation or, if  
14 the Governor authorizes a waiver of the notice of public hearing,  
15 may submit a written statement to the agency and to the Secretary  
16 of State to be entered in the records relating to the rule or  
17 regulation.

18 Sec. 7. (1) After an agency submits a copy of each  
19 amendment or rule or regulation pursuant to section 84-907.06, or  
20 any time thereafter, any member of the Legislature who feels  
21 aggrieved by the amendment, rule, or regulation or believes that  
22 the amendment, rule, or regulation is in excess of the statutory  
23 authority or jurisdiction of the agency, is unconstitutional, or is  
24 inconsistent with the legislative intent of the authorizing statute  
25 may file a complaint with the Chairperson of the Executive Board of  
26 the Legislative Council. The complaint shall explain in detail the  
27 member's contentions.

1 (2) The chairperson of the executive board or a committee  
2 staff member of the executive board shall refer the complaint to  
3 the chairperson of the standing committee of the Legislature which  
4 has subject matter jurisdiction over the issue involved in the rule

5 or regulation or which has traditionally handled the issue and, if  
6 practicable, to the member of the Legislature who was the primary  
7 sponsor of the legislative bill that granted the agency the  
8 rulemaking authority if the member is still serving or, if the  
9 legislative bill was amended to include the rulemaking authority,  
10 to the primary sponsor of the amendment granting rulemaking  
11 authority if the member is still serving.  
12 (3) The standing committee and primary sponsor of the  
13 legislative bill or amendment granting rulemaking authority may  
14 consider the complaint and, if such committee or primary sponsor  
15 concludes that the complaint has merit, then such committee or  
16 primary sponsor may request a written response from the agency  
17 which shall include, but not be limited to (a) a description of the  
18 amendment or rule or regulation, (b) when applicable, a description  
19 of the legislative intent of the statute granting the agency  
20 rulemaking authority and a statement explaining how the amendment  
21 or rule or regulation is consistent with legislative intent, (c) if  
22 the description required in subdivision (b) of this subsection is  
23 inapplicable, an explanation as to why the amendment or rule or  
24 regulation is necessary, and (d) an explanation of the extent to  
25 which and how any public comment was taken into consideration by  
26 the agency with respect to the amendment or rule or regulation.  
27 The agency shall respond within sixty days of a request, and such  
response shall be a public record.  
2 (4) Nothing in this section shall be construed to  
3 prohibit the adoption or promulgation of the rule or regulation in  
4 accordance with other sections of the Administrative Procedure Act.  
5 Sec. 8. Section 84-920, Reissue Revised Statutes of  
6 Nebraska, is amended to read:  
7 84-920. Sections 84-901 to 84-920 and sections 1 and 7  
8 of this act shall be known and may be cited as the Administrative  
9 Procedure Act.  
10 Sec. 9. Original sections 84-906, 84-906.01, 84-907,  
11 84-907.06, 84-907.07, and 84-920, Reissue Revised Statutes of  
12 Nebraska, are repealed.".

## SELECT COMMITTEE REPORTS

### Enrollment and Review

#### Correctly Engrossed

The following bills were correctly engrossed: LBs 206, 217, 268, 439, 675, and 675A.

ER9020

Enrollment and Review Change to LB 268

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, line 3, "35-1320," has been inserted after the first comma.

**LEGISLATIVE BILL 566.** Placed on Select File as amended.

E & R amendment to LB 566:

AM7069

- 1 1. On page 29, line 16, strike "form", show as stricken,
- 2 and insert "application".

**LEGISLATIVE BILL 274.** Placed on Select File as amended.

E & R amendment to LB 274:

AM7068

- 1 1. Due to the passage of LB 284, in the Standing
- 2 Committee amendments, AM0244:
- 3 a. On page 4, line 12; page 11, line 8; and page 116,
- 4 line 15, strike "2001" and insert "2004"; and
- 5 b. On page 124, strike beginning with "(a)" in line 4
- 6 through line 5 and insert "a period of".
- 7 2. Due to the passage of LB 54, in the Standing
- 8 Committee amendments, AM0244:
- 9 a. On page 57, line 25, strike "Received an honorable
- 10 discharge" and insert "Was discharged or otherwise separated with a
- 11 characterization of honorable";
- 12 b. On page 58, lines 16 and 17, strike "received an
- 13 honorable discharge" and insert "was discharged or otherwise
- 14 separated with a characterization of honorable";
- 15 c. On page 59, line 6, strike "honorably"; and in line 7
- 16 after "discharged" insert "or otherwise separated with a
- 17 characterization of honorable or general (under honorable
- 18 conditions)"; and
- 19 d. On page 101, line 15, strike "honorably discharged";
- 20 and in line 18 after "Affairs" insert "and who was discharged or
- 21 otherwise separated with a characterization of honorable".
- 22 3. Due to the passage of LB 15, in the Standing
- 23 Committee amendments, AM0244:
- 24 a. On page 109, line 4, strike "an" and insert "a
- 1 written", after "order" insert ", mailed to the objector within
- 2 seven days after the order", and strike "determination" and insert
- 3 "decision"; in line 5 after the second "be" insert "to the Tax
- 4 Equalization and Review Commission"; and in line 6 after "Act"
- 5 insert "within thirty days after the written order"; and
- 6 b. On page 110, line 15, after "Administrator" insert
- 7 "within thirty days after the hearing"; in line 16 strike "certify
- 8 its" and insert "mail or deliver its final"; in line 17 strike
- 9 "ten" and insert "seven"; in line 18 strike "hearing" and insert
- 10 "date of decision"; and in line 20 after "Commission" insert "in
- 11 accordance with the Tax Equalization and Review Commission Act
- 12 within thirty days after the final decision".
- 13 4. On page 1, strike lines 5 through 11 and insert

14 "60-6,298, 60-6,309, 60-6,320, 60-6,347, 60-6,355, 60-6,364,  
15 60-6,375, 60-1303, 60-1306, 60-1307, 60-1401.02, 60-1411.02,  
16 60-1515, 60-1801, 60-1803, 60-1804, 60-1807, 60-1901, 60-1902,  
17 60-2507, 60-2701, 66-6,103, 75-305, 77-1342, 77-2701.24,  
18 77-2704.44, 77-27,143, 77-4501, 77-5403, and 81-1023, Reissue  
19 Revised Statutes of Nebraska, and sections 13-324, 13-518, 13-2814,  
20 18-1736, 18-1737, 23-186, 66-482, 66-686, 75-363, 77-2703,  
21 77-2703.01, 77-4103, 77-5007, 81-2005, and"  
22 5. On page 2, line 5, strike "60-6,320" and insert  
23 "60-6,321".

**LEGISLATIVE BILL 111.** Placed on Select File.

**LEGISLATIVE BILL 111A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 589A.** Introduced by Beutler, 28.

A BILL FOR AN ACT relating to appropriations; to reduce an appropriation to aid in carrying out the provisions of Legislative Bill 589, Ninety-ninth Legislature, First Session, 2005.

### **VISITORS**

Visitors to the Chamber were 7 students, teacher, and sponsors from Millard South High School, Omaha; 80 eighth-grade students and teachers from Mary Our Queen School, Omaha; 80 fourth-grade students and teachers from Hamlow Elementary School, Waverly; and 43 fourth-grade students and teacher from Bryan Elementary School, Lexington.

### **RECESS**

At 12:00 p.m., on a motion by Senator Bourne, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

### **ROLL CALL**

The roll was called and all members were present except Senators Brashear and Dw. Pedersen who were excused; and Senators Aguilar, Brown, Cornett, Kremer, Kruse, Loudon, McDonald, Pahls, and Raikes who were excused until they arrive.

**GENERAL FILE**

**LEGISLATIVE BILL 551.** Title read. Considered.

The Standing Committee amendment, AM0695, found on page 748, was considered.

Senator Jensen offered the following amendment to the Standing Committee amendment:

AM0987

(Amendments to Standing Committee amendments, AM0695)

- 1 1. Strike section 8.
- 2 2. On page 10, line 1, after the last comma insert
- 3 "and"; and in line 2 strike "and 71-906,".
- 4 3. Renumber the remaining sections accordingly.

The Jensen amendment was adopted with 31 ayes, 0 nays, 10 present and not voting, and 8 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 42 ayes, 0 nays, 3 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 273.** The Standing Committee amendment, AM0639, found on page 654 and considered on page 988, as amended, was renewed.

Senator Chambers asked unanimous consent to bracket until May 25, 2005.

Senator Cunningham objected.

Senator Chambers offered the following motion:

Bracket until May 25, 2005.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 4 nays, and 19 not voting.

Senator Chambers withdrew his motion to bracket.

The Standing Committee amendment, as amended, lost with 13 ayes, 20 nays, 12 present and not voting, and 4 excused and not voting.

Senator Beutler renewed his pending amendment, FA118, found on page 989.

Pending.

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 4A.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 4, Ninety-ninth Legislature, First Session, 2005.

### **AMENDMENTS - Print in Journal**

Senator Loudon filed the following amendment to LB 484:  
AM0995

1 1. On page 19, strike beginning with "primary" in line  
2 13 through "(d)" in line 15 and show as stricken; in line 17 strike  
3 "(e)", show as stricken, and insert "(d)"; and in line 28 before  
4 "shall" insert "and primary insurance benefits payable under Title  
5 II of the Social Security Act, as amended, or similar payments  
6 under any act of Congress".

Senator D. Pederson filed the following amendment to LB 47:  
FA134

On page 2, lines 12 and 13, strike "three million" and insert "one million five hundred thousand," and in line 14 strike "section" and insert "sections 4 to."

On page 3, line 1, after the period insert "The match amount shall be one dollar of state funds for each two dollars of private gifts, if available."

On page 2, line 28, after the word "professorship" insert, "provided that any such gift from the University of Nebraska Foundation or any of the Nebraska State College foundations must originate from a gift or gifts received by such foundation on or after June 1, 2005."

On page 3, line 9, after the word "position" insert, "provided that any such gift from the University of Nebraska Foundation or any of the Nebraska State College foundations must originate from a gift or gifts received by such foundation on or after June 1, 2005."

### **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 67.** Introduced by Thompson, 14.

WHEREAS, Scott D. Johnson has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are

required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Scott Johnson has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn twenty-one merit badges, twelve of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Scott Johnson on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Scott Johnson.

Laid over.

**LEGISLATIVE RESOLUTION 68.** Introduced by Schimek, 27; Hudkins, 21; Langemeier, 23.

PURPOSE: The purpose of this resolution is to study the safety of and potential improvements to the intersections in Nebraska's state highway system. Issues addressed by this interim study may include, but are not limited to, the following:

(1) Examination of fatality rates on Nebraska highways;

(2) Examination of intersections within Nebraska's state highway system and the safety risks that can be attributed to the lack of rumble strips at such intersections;

(3) Examination of the highway systems and intersections of other states and the fatality rates on those highway systems and intersections;

(4) Consideration of the need for rumble strips at all intersections within Nebraska's state highway system to increase safety on Nebraska roads; and

(5) Consideration of the fiscal impact of fitting all intersections within Nebraska's state highway system with rumble strips.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 69.** Introduced by Aguilar, 35.

PURPOSE: The illegal production of methamphetamine in so-called meth labs results in conditions that are hazardous and very dangerous to the

public health. Such environmental and health hazards in residential property may be unknown and undetected by subsequent residents and exposes such residents, and especially children, to dangerous health conditions. Correct and thorough meth lab cleanup is essential to protect our citizens from the environmental and health hazards of meth labs. The purpose of this study is to investigate and provide recommendations to address the public health hazards created by meth labs. The study shall include but shall not be limited to: Meth lab cleanup and testing procedures and costs; acceptable levels of individual chemicals remaining after cleanup of meth labs; the role of the federal Environmental Protection Agency, the Department of Environmental Quality, the Nebraska Health and Human Services System, the Nebraska State Patrol, local health departments, building and safety departments, law enforcement, property owners, and private companies that clean up contaminated sites such as meth labs and former meth labs; coordination and collaboration of governmental agencies in cleanup of meth labs; the legal authority and liability of governmental agencies to "red tag" or quarantine and monitor property; the responsibility and liability of property owners to provide safe environment after the presence or cleanup of a meth lab; and the assessment of current state and local hazardous waste and health-based policies, procedures, and standards relating to meth lab cleanup in this and other states.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senators Engel and D. Pederson asked unanimous consent to have their names added as cointroducers to LB 542. No objections. So ordered.

Senator Thompson asked unanimous consent to have her name added as cointroducer to LB 577. No objections. So ordered.

Senator Redfield asked unanimous consent to have her name added as cointroducer to LB 753. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 52 fourth-grade students and teacher from Morton Elementary School, Lexington; Rachael Donaldson from Lincoln; and 45 fifth-grade students and teachers from West Park School, Columbus.

**ADJOURNMENT**

At 3:58 p.m., on a motion by Senator D. Pederson, the Legislature adjourned until 9:00 a.m., Thursday, March 31, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**FIFTY-THIRD DAY - MARCH 31, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FIFTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, March 31, 2005

**PRAYER**

The prayer was offered by Pastor John Nelson Jr., Christ Lutheran Church, Columbus.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Bourne, Brown, Cornett, Landis, McDonald, Dw. Pedersen, D. Pederson, and Schrock who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-second day was approved.

**COMMUNICATION**

Received petition from the Douglas County Board of Commissioners adopted on March 29, 2005.

**GENERAL FILE**

**LEGISLATIVE BILL 276.** Title read. Considered.

The Standing Committee amendment, AM0417, found on page 561, was adopted with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 31 ayes, 0 nays, 10 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 4.** Title read. Considered.

**SPEAKER BRASHEAR PRESIDING**

Pending.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 59, 60, 61, 62, 63, and 64 were adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 59, 60, 61, 62, 63, and 64.

### **GENERAL FILE**

**LEGISLATIVE BILL 4.** Considered.

Senator Chambers offered the following amendment:

FA135

Add a new section

"Incidentally, notwithstanding any other provision of law, the death penalty is hereby abolished."

**SENATOR JANSSEN PRESIDING**

**PRESIDENT SHEEHY PRESIDING**

**SENATOR CUDABACK PRESIDING**

Senator Chambers withdrew his amendment.

Senator Beutler offered the following amendment:

FA136

On page 27, line 16 strike "Governor" and insert "legislature, by resolution"

The Beutler amendment was adopted with 30 ayes, 0 nays, 18 present and not voting, and 1 excused and not voting.

Pending.

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 70.** Introduced by Kruse, 13.

WHEREAS, Chief Standing Bear was a distinguished leader of the Ponca tribe in Nebraska; and

WHEREAS, Standing Bear was determined to travel from Indian Territory back to Nebraska to bury his son on his farm. He was arrested on the Omaha Reservation and transported to Fort Omaha where he and thirty

other Indians traveling with the chief were detained; and

WHEREAS, Standing Bear subsequently petitioned the United States by writ of habeas corpus for his release and the release of his companions as they were persons under the law and were being detained illegally; and

WHEREAS, the churches of Omaha paid the Ponca members' expenses related to the federal trial and supported Standing Bear's view that the Indians were persons under the law and were being detained illegally, demanding "that the protection of the United States be extended to these original Americans"; and

WHEREAS, U. S. District Judge Elmer Dundy declared in his opinion that Native Americans were indeed persons and that Chief Standing Bear had a right to immigrate from Indian Territory to the United States, changing forever related basic legal assumptions in our nation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Legislature recognizes the determination and achievement of Chief Standing Bear.

2. That the Nebraska Legislature joins with Governor Heineman in declaring May 12, 2005, to be Chief Standing Bear Day in Nebraska.

Laid over.

### AMENDMENT - Print in Journal

Senator Redfield filed the following amendment to LB 500:  
AM1014

- 1 1. Strike original section 13 and all amendments
- 2 thereto.
- 3 2. On page 3, line 15, strike the last "and" and insert
- 4 ", but not for which"; and in line 16 after "domain" insert "may
- 5 be".
- 6 3. On page 4, line 15, strike "payment of relocation
- 7 assistance; (d)" and renumber the remaining subdivisions.
- 8 4. On page 12, strike line 28.
- 9 5. On page 13, strike line 1 through "(i)" in line 2 and
- 10 insert "and
- 11 (h)".
- 12 6. On page 25, line 15, strike "eminent domain." and
- 13 after "otherwise" insert ", but not by eminent domain."; and strike
- 14 beginning with the comma in line 18 through "individuals" in line
- 15 19.
- 16 7. In the Standing Committee amendments, AM0773, strike
- 17 section 30 and amendment 19.
- 18 8. Renumber the remaining sections and correct internal
- 19 references accordingly.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**LEGISLATIVE BILL 739.** Placed on Select File as amended.

(E & R amendment, AM7071, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE RESOLUTION 12CA.** Placed on Select File.

(Signed) Michael Flood, Chairperson

**VISITORS**

Visitors to the Chamber were 30 fourth-grade students and teacher from Sandy Creek Elementary School, Fairfield; 74 fifth-grade students and teachers from Bellfield Elementary School, Fremont; National FFA members from across the state; 33 fourth-grade students and teacher from Shoemaker Elementary School, Grand Island; 21 exchange students from Kreisgymnasium, Heinsberg, Germany; and Ryan Shaffer from Norfolk.

**RECESS**

At 11:53 a.m., on a motion by Senator Byars, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Brashear, Brown, Combs, Engel, Erdman, Kruse, Loudon, Dw. Pedersen, D. Pederson, and Price who were excused until they arrive.

**AMENDMENT - Print in Journal**

Senator Beutler filed the following amendment to LB 4:  
AM1026

- 1 1. On page 27, line 20, strike "Governor" and insert
- 2 "Legislature"; and in line 27 after the period insert "Should a
- 3 vacancy exist in the position of compact administrator while the
- 4 Legislature is not in session, the Governor may appoint an interim
- 5 compact administrator who shall have all the powers of a compact
- 6 administrator until the Legislature appoints a new compact
- 7 administrator."

**GENERAL FILE****LEGISLATIVE BILL 682.** Title read. Considered.

The Standing Committee amendment, AM0574, found on page 659, was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 389.** Title read. Considered.

The Standing Committee amendment, AM0572, found on page 625, was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 389A.** Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 193.** Title read. Considered.

The Standing Committee amendment, AM0375, found on page 589, was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

**AMENDMENTS - Print in Journal**

Senator Wehrbein filed the following amendment to LB 227:  
AM0931

(Amendments to Standing Committee amendments, AM0062)

- 1 1. On page 1, line 8, after the second "4" insert "; in
- 2 line 19 strike 'in' through 'years' and show as stricken; strike
- 3 beginning with 'equal' in line 24 through the first 'of' in line
- 4 26, show as stricken, and insert 'sufficient to fund'; and strike
- 5 beginning with the second 'the' in line 26 through 'years' in line
- 6 28, show as stricken, and insert 'any cemetery created pursuant to
- 7 this subsection'".

Senator Synowiecki filed the following amendment to LB 489:

(Amendment, AM1006, is printed separately and available in the Bill Room,

Room 1104.)

### GENERAL FILE

**LEGISLATIVE BILL 273.** The Beutler pending amendment, FA118, found on page 989 and considered on page 1046, was renewed.

Senator Beutler asked unanimous consent to withdraw his pending amendment, FA118, found on page 989, and replace it with his substitute amendment, AM1022. No objections. So ordered.

AM1022

- 1 1. On page 2, line 13, after "community" insert
- 2 "business"; in lines 23 and 27 strike "political subdivisions" and
- 3 insert "municipalities or counties"; in line 26 strike "the
- 4 situations described in this section" and insert "chronic economic
- 5 distress"; in line 27 after "have" insert "chronic economic
- 6 distress as indicated by"; and strike line 28.
- 7 2. On page 3, line 1, strike "(i)" and insert "(a)"; in
- 8 line 2 strike "or"; in line 3 strike "(ii)" and insert "(b)"; in
- 9 line 5 strike "(b)" and insert "(c)"; in line 9 strike "five" and
- 10 insert "two"; in line 10 strike "political subdivision" and insert
- 11 "municipality or county"; and in line 14 strike "political
- 12 subdivisions" and insert "municipalities or counties".

### SENATOR ENGEL PRESIDING

### SENATOR CUDABACK PRESIDING

Pending.

### AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 709:  
AM1027

(Amendments to Standing Committee amendments, AM0772)

- 1 1. Insert the following new section:
- 2 "Sec. 3. The Legislature finds that:
- 3 (1) The medicaid program under Title XIX of the Social
- 4 Security Act, 42 U.S.C. 1396 et seq., provides essential health
- 5 care and long-term care coverage to low-income children, pregnant
- 6 women, and families, individuals with disabilities, and senior
- 7 citizens serving over one in ten Nebraskans;
- 8 (2) The medicaid program covers one in four children in
- 9 rural areas;
- 10 (3) The medicaid program is the largest single purchaser
- 11 of maternity care and pays for over one-third of the births in the
- 12 United States each year;
- 13 (4) Medicaid is America's single largest purchaser of
- 14 nursing home services and other long-term care, covering the

- 15 majority of nursing home residents;  
16 (5) In Nebraska, the elderly and individuals with  
17 disabilities comprise twenty-three and three-tenths percent of the  
18 medicaid population and represent sixty-seven and two-tenths  
19 percent of medicaid expenditures;  
20 (6) In Nebraska, low-income children and their parents  
21 comprise seventy-six and seven-tenths percent of the medicaid  
22 population and represent thirty-two and eight-tenths percent of  
23 medicaid expenditures;  
24 (7) Medicaid pays for personal care and other supportive  
25 services necessary to enable individuals with disabilities to  
26 remain in the community, to work, and to maintain independence; and  
27 (8) Medicaid is the single largest source of revenue for  
28 the nation's safety net hospitals and health centers and is  
29 critical to the ability of these providers to continue to serve  
30 medicaid enrollees and uninsured Americans.".  
31 2. On page 1, line 3, strike "6" and insert "7".  
32 3. On page 3, line 2, strike "5" and insert "6"; and in  
33 line 3 strike "7 to 11" and insert "8 to 12".  
34 4. On page 4, line 22, strike "10" and insert "11".  
35 5. Renumber the remaining sections accordingly.

Senator Beutler filed the following amendment to LB 709:  
AM1028

(Amendments to Standing Committee amendments, AM0772)

- 1 1. On page 1, line 14, strike "has" and insert "may";  
2 and in line 22 strike "control" and insert "mitigate".  
3 2. On page 2, line 16, after "district" insert "on the  
4 plan as it is intended to be proposed"; in lines 20 and 27 strike  
5 "shall" and insert "may"; and in line 24 after "plan" insert "if  
6 the plan has been altered since first presented to the public".

### **WITHDRAW - Cointroducer**

Senator Synowiecki withdrew his name as cointroducer to LB 709.

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Friend asked unanimous consent to have his name added as cointroducer to LB 542. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Aaron, Jenny, Averi, and Treyson Bott and Scarlet and Savannah Ellis from Houston, Texas.

**ADJOURNMENT**

At 3:30 p.m., on a motion by Senator Bourne, the Legislature adjourned until 9:00 a.m., Friday, April 1, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**FIFTY-FOURTH DAY - APRIL 1, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FIFTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, April 1, 2005

**PRAYER**

The prayer was offered by Senator Kruse.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Baker who was excused; and Senators Brown, Byars, Jensen, Landis, D. Pederson, and Wehrbein who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-third day was approved.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of March 31, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Gangwish, Duane  
Cattlemen, Inc., Nebraska

Radcliffe, Walter H. of Radcliffe & Associates  
Omaha Property Owners Association

Woythaler-Runestad, Carly  
Hospital Association, Nebraska

**BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 39.**

A BILL FOR AN ACT relating to the State Forester; to amend section 85-162.04, Reissue Revised Statutes of Nebraska; to change provisions relating to personnel; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Aguilar	Cunningham	Howard	Louden	Redfield
Beutler	Engel	Hudkins	McDonald	Schimek
Bourne	Erdman	Janssen	Mines	Stuhr
Brashear	Fischer	Johnson	Pahls	Stuthman
Chambers	Flood	Kopplin	Pedersen, Dw.	Synowiecki
Connealy	Foley	Kremer	Preister	Thompson
Cornett	Friend	Kruse	Price	
Cudaback	Heidemann	Langemeier	Raikes	

Voting in the negative, 0.

Present and not voting, 3:

Burling	Combs	Schrock
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Excused and not voting, 8:

Baker	Byars	Landis	Smith
Brown	Jensen	Pederson, D.	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 121.**

A BILL FOR AN ACT relating to the Game Law; to amend section 37-201, Reissue Revised Statutes of Nebraska; to authorize the issuance of discounted hunting and fishing permits to residents that have been deployed in the military; to set fees; to authorize rules and regulations; to harmonize provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Aguilar	Cudaback	Heidemann	Langemeier	Raikes
Beutler	Cunningham	Howard	Louden	Redfield
Bourne	Engel	Hudkins	McDonald	Schimek
Brashear	Erdman	Janssen	Mines	Schrock
Chambers	Fischer	Johnson	Pahls	Stuhr
Combs	Flood	Kopplin	Pedersen, Dw.	Stuthman
Connealy	Foley	Kremer	Preister	Synowiecki
Cornett	Friend	Kruse	Price	Thompson

Voting in the negative, 0.

Present and not voting, 1:

Burling

Excused and not voting, 8:

Baker	Byars	Landis	Smith
Brown	Jensen	Pederson, D.	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 131.**

A BILL FOR AN ACT relating to the Nebraska Pure Food Act; to amend section 81-2,245.01, Reissue Revised Statutes of Nebraska, and sections 81-2,239 and 81-2,240, Revised Statutes Supplement, 2004; to define and redefine terms; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Aguilar	Cudaback	Howard	McDonald	Schrock
Beutler	Cunningham	Hudkins	Mines	Stuhr
Bourne	Engel	Janssen	Pahls	Stuthman
Brashear	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Chambers	Flood	Kremer	Price	
Combs	Foley	Kruse	Raikes	
Connealy	Friend	Langemeier	Redfield	
Cornett	Heidemann	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 8:

Baker	Byars	Landis	Smith
Brown	Jensen	Pederson, D.	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 144.**

A BILL FOR AN ACT relating to the School Employees Retirement Act; to amend section 79-907, Revised Statutes Supplement, 2004; to change provisions relating to statements of information; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Cornett	Heidemann	Louden	Schimek
Beutler	Cudaback	Howard	McDonald	Schrock
Bourne	Cunningham	Hudkins	Mines	Stuhr
Brashear	Engel	Janssen	Pahls	Stuthman
Burling	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Byars	Fischer	Kopplin	Preister	Thompson
Chambers	Flood	Kremer	Price	
Combs	Foley	Kruse	Raikes	
Connealy	Friend	Langemeier	Redfield	

Voting in the negative, 0.

Excused and not voting, 7:

Baker	Jensen	Pederson, D.	Wehrbein
Brown	Landis	Smith	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 234.**

A BILL FOR AN ACT relating to cities of the first class; to amend section 16-672.01, Reissue Revised Statutes of Nebraska; to change provisions relating to storm sewer districts; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Cornett	Heidemann	Louden	Schimek
Beutler	Cudaback	Howard	McDonald	Schrock
Bourne	Cunningham	Hudkins	Mines	Stuhr
Brashear	Engel	Janssen	Pahls	Stuthman
Burling	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Byars	Fischer	Kopplin	Preister	Thompson
Chambers	Flood	Kremer	Price	
Combs	Foley	Kruse	Raikes	
Connealy	Friend	Langemeier	Redfield	

Voting in the negative, 0.

Excused and not voting, 7:

Baker	Jensen	Pederson, D.	Wehrbein
Brown	Landis	Smith	

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

#### **LEGISLATIVE BILL 299.** With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1502, Revised Statutes Supplement, 2004; to change property tax protest procedures; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Aguilar	Cornett	Heidemann	Louden	Schimek
Beutler	Cudaback	Howard	Mines	Schrock
Bourne	Cunningham	Hudkins	Pahls	Stuhr
Brashear	Engel	Janssen	Pedersen, Dw.	Stuthman
Burling	Erdman	Johnson	Pederson, D.	Synowiecki
Byars	Fischer	Kopplin	Preister	Thompson
Chambers	Flood	Kremer	Price	
Combs	Foley	Kruse	Raikes	
Connealy	Friend	Langemeier	Redfield	

Voting in the negative, 0.

Excused and not voting, 7:

Baker	Jensen	McDonald	Wehrbein
Brown	Landis	Smith	

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 352.**

A BILL FOR AN ACT relating to community colleges; to provide for inapplicability of certain employment rights; and to provide a duty for the Revisor of Statutes.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Connealy	Friend	Langemeier	Redfield
Beutler	Cornett	Heidemann	Louden	Schimek
Bourne	Cudaback	Howard	Mines	Schrock
Brashear	Cunningham	Hudkins	Pahls	Stuhr
Brown	Engel	Janssen	Pedersen, Dw.	Stuthman
Burling	Erdman	Johnson	Pederson, D.	Synowiecki
Byars	Fischer	Kopplin	Preister	Thompson
Chambers	Flood	Kremer	Price	
Combs	Foley	Kruse	Raikes	

Voting in the negative, 0.

Excused and not voting, 6:

Baker	Landis	Smith
Jensen	McDonald	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 485.**

A BILL FOR AN ACT relating to tort claims; to amend sections 81-8,211, 81-8,224, 81-8,225, and 81-8,239.02, Reissue Revised Statutes of Nebraska; to change state tort claim approval requirements and payment provisions; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Connealy	Friend	Langemeier	Redfield
Beutler	Cornett	Heidemann	Louden	Schrock
Bourne	Cudaback	Howard	Mines	Stuhr
Brashear	Cunningham	Hudkins	Pahls	Stuthman
Brown	Engel	Janssen	Pedersen, Dw.	Synowiecki
Burling	Erdman	Johnson	Pederson, D.	Thompson
Byars	Fischer	Kopplin	Preister	
Chambers	Flood	Kremer	Price	
Combs	Foley	Kruse	Raikes	

Voting in the negative, 0.

Present and not voting, 1:

Schimek

Excused and not voting, 6:

Baker	Landis	Smith
Jensen	McDonald	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 492.**

A BILL FOR AN ACT relating to agriculture; to amend sections 25-1093 and 88-547, Reissue Revised Statutes of Nebraska, and sections 88-525 and 88-527, Revised Statutes Supplement, 2004; to change provisions of the Grain Warehouse Act; to provide for designation of grain in storage and liens as prescribed; to require written notice of certain proceedings; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Connealy	Friend	Louden	Schimek
Beutler	Cornett	Heidemann	Mines	Schrock
Bourne	Cudaback	Howard	Pahls	Stuhr
Brashear	Cunningham	Hudkins	Pedersen, Dw.	Stuthman
Brown	Engel	Janssen	Pederson, D.	Synowiecki
Burling	Erdman	Kopplin	Preister	Thompson
Byars	Fischer	Kremer	Price	
Chambers	Flood	Kruse	Raikes	
Combs	Foley	Langemeier	Redfield	

Voting in the negative, 0.

Present and not voting, 1:

Johnson

Excused and not voting, 6:

Baker	Landis	Smith
Jensen	McDonald	Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 516.**

A BILL FOR AN ACT relating to telecommunications service; to amend section 86-420, Revised Statutes Supplement, 2004; to provide powers and immunity from liability for the Public Service Commission; to harmonize provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Aguilar	Connealy	Friend	Landis	Raikes
Beutler	Cornett	Heidemann	Langemeier	Redfield
Bourne	Cudaback	Howard	Louden	Schimek
Brashear	Cunningham	Hudkins	Mines	Schrock
Brown	Engel	Janssen	Pahls	Stuhr
Burling	Erdman	Johnson	Pedersen, Dw.	Stuthman
Byars	Fischer	Kopplin	Pederson, D.	Synowiecki
Chambers	Flood	Kremer	Preister	Thompson
Combs	Foley	Kruse	Price	

Voting in the negative, 0.

Excused and not voting, 5:

Baker	Jensen	McDonald	Smith	Wehrbein
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 668.**

A BILL FOR AN ACT relating to specific conveyances; to direct the Department of Health and Human Services to transfer real estate to the University of Nebraska at Kearney.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Aguilar	Connealy	Friend	Landis	Raikes
Beutler	Cornett	Heidemann	Langemeier	Redfield
Bourne	Cudaback	Howard	Louden	Schimek
Brashear	Cunningham	Hudkins	Mines	Schrock
Brown	Engel	Janssen	Pahls	Stuhr
Burling	Erdman	Johnson	Pedersen, Dw.	Stuthman
Byars	Fischer	Kopplin	Pederson, D.	Synowiecki
Chambers	Flood	Kremer	Preister	Thompson
Combs	Foley	Kruse	Price	

Voting in the negative, 0.

Excused and not voting, 5:

Baker	Jensen	McDonald	Smith	Wehrbein
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 684.**

A BILL FOR AN ACT relating to the Nebraska Capitol Commission; to amend sections 72-2201 and 81-1108.32, Revised Statutes Supplement, 2004; to provide powers and duties; to create a fund; to provide for a vice-chairperson; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Aguilar	Connealy	Friend	Landis	Price
Beutler	Cornett	Heidemann	Langemeier	Raikes
Bourne	Cudaback	Howard	Louden	Redfield
Brashear	Cunningham	Hudkins	McDonald	Schimek
Brown	Engel	Janssen	Mines	Schrock
Burling	Erdman	Johnson	Pahls	Stuhr
Byars	Fischer	Kopplin	Pedersen, Dw.	Stuthman
Chambers	Flood	Kremer	Pederson, D.	Synowiecki
Combs	Foley	Kruse	Preister	Thompson

Voting in the negative, 0.

Excused and not voting, 4:

Baker	Jensen	Smith	Wehrbein
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 684A.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 684, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Aguilar	Conneally	Friend	Landis	Price
Beutler	Cornett	Heidemann	Langemeier	Raikes
Bourne	Cudaback	Howard	Louden	Redfield
Brashear	Cunningham	Hudkins	McDonald	Schimek
Brown	Engel	Janssen	Mines	Schrock
Burling	Erdman	Johnson	Pahls	Stuhr
Byars	Fischer	Kopplin	Pedersen, Dw.	Stuthman
Chambers	Flood	Kremer	Pederson, D.	Synowiecki
Combs	Foley	Kruse	Preister	Thompson

Voting in the negative, 0.

Excused and not voting, 4:

Baker	Jensen	Smith	Wehrbein
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 675.**

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-480, 60-4,120.01, 60-4,123, and 60-4,124, Reissue Revised Statutes of Nebraska; to change provisions relating to provisional operator's permits, LPD-learner's permits, school permits, and LPE-learner's permits; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure

having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Cornett	Howard	McDonald	Schrock
Beutler	Cudaback	Hudkins	Mines	Stuhr
Bourne	Cunningham	Janssen	Pahls	Stuthman
Brashear	Engel	Johnson	Pedersen, Dw.	Synowiecki
Brown	Erdman	Kopplin	Pederson, D.	Thompson
Burling	Fischer	Kremer	Preister	Wehrbein
Byars	Flood	Kruse	Price	
Chambers	Foley	Landis	Raikes	
Combs	Friend	Langemeier	Redfield	
Connealy	Heidemann	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 3:

Baker                  Jensen                  Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 675A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 675, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Cornett	Howard	McDonald	Schrock
Beutler	Cudaback	Hudkins	Mines	Stuhr
Bourne	Cunningham	Janssen	Pahls	Stuthman
Brashear	Engel	Johnson	Pedersen, Dw.	Synowiecki
Brown	Erdman	Kopplin	Pederson, D.	Thompson
Burling	Fischer	Kremer	Preister	Wehrbein
Byars	Flood	Kruse	Price	
Chambers	Foley	Landis	Raikes	
Combs	Friend	Langemeier	Redfield	
Connealy	Heidemann	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 3:

Baker                      Jensen                      Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 205.**

A BILL FOR AN ACT relating to developmental disabilities; to eliminate the effect of certain requirements of developmental disability regions; and to outright repeal section 83-1212, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Aguilar	Connealy	Heidemann	Langemeier	Raikes
Beutler	Cudaback	Howard	Louden	Redfield
Bourne	Cunningham	Hudkins	McDonald	Schimek
Brashear	Engel	Janssen	Mines	Schrock
Brown	Erdman	Johnson	Pahls	Stuhr
Burling	Fischer	Kopplin	Pedersen, Dw.	Stuthman
Byars	Flood	Kremer	Pederson, D.	Synowiecki
Chambers	Foley	Kruse	Preister	Thompson
Combs	Friend	Landis	Price	Wehrbein

Voting in the negative, 0.

Present and not voting, 1:

Cornett

Excused and not voting, 3:

Baker                      Jensen                      Smith

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 335 with 39 ayes, 3 nays, 4 present and not voting, and 3 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 335.**

A BILL FOR AN ACT relating to water; to amend sections 31-1015, 33-105, 46-241, 46-677, 46-686, 46-688, 46-690, 54-2429, and 61-210, Reissue Revised Statutes of Nebraska, and section 2-3257, Revised Statutes Supplement, 2004; to adopt the Safety of Dams and Reservoirs Act; to provide and eliminate penalties; to eliminate provisions relating to dam inspections; to provide an exemption as prescribed under the Industrial Ground Water Regulatory Act; to harmonize provisions; to repeal the original sections; and to outright repeal sections 46-257, 46-277, and 46-278, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Cornett	Howard	McDonald	Schrock
Beutler	Cudaback	Hudkins	Mines	Smith
Bourne	Cunningham	Janssen	Pahls	Stuhr
Brashear	Engel	Johnson	Pedersen, Dw.	Stuthman
Brown	Erdman	Kopplin	Pederson, D.	Synowiecki
Burling	Fischer	Kremer	Preister	Thompson
Byars	Flood	Kruse	Price	Wehrbein
Chambers	Foley	Landis	Raikes	
Combs	Friend	Langemeier	Redfield	
Connealy	Heidemann	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 2:

Baker                      Jensen

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 570 with 40 ayes, 3 nays, 4 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 570.**

A BILL FOR AN ACT relating to the Uniform Commercial Code; to amend sections 45-1,109, 53-208, and 69-2103, Reissue Revised Statutes of

Nebraska, sections 86-630 and 86-643, Revised Statutes Supplement, 2004, and sections 2-103, 2-104, 2-202, 2-310, 2-323, 2-401, 2-503, 2-505, 2-506, 2-509, 2-605, 2-705, 2A-103, 2A-501, 2A-514, 2A-518, 2A-519, 2A-526, 2A-527, 2A-528, 3-103, 4-104, 4-210, 4A-105, 4A-106, 4A-204, 5-103, 8-103, 9-102, 9-203, 9-207, 9-208, 9-301, 9-310, 9-312, 9-313, 9-314, 9-317, 9-338, and 9-601, Uniform Commercial Code; to adopt and eliminate provisions relating to general provisions and documents of title; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide an operative date; to repeal the original sections; and to outright repeal sections 1-101 to 1-110, 1-201 to 1-208, 2-208, 2A-207, 7-101 to 7-105, 7-201 to 7-210, 7-301 to 7-309, 7-401 to 7-404, 7-501 to 7-509, 7-601 to 7-603, and 10-104, Uniform Commercial Code.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Cornett	Howard	Louden	Schimek
Beutler	Cudaback	Hudkins	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Thompson
Chambers	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Baker

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

### **LEGISLATIVE BILL 217.**

A BILL FOR AN ACT relating to public financing; to amend sections 13-808, 13-2530, and 13-2531, Revised Statutes Supplement, 2004; to adopt the Public Facilities Construction and Finance Act; to change provisions relating to bonds of joint entities and joint public agencies; to harmonize provisions; to provide severability; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure

having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Cudaback	Hudkins	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Thompson
Chambers	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	
Cornett	Howard	Louden	Schimek	

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 1:

Baker

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 242 with 38 ayes, 3 nays, 7 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 242.**

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 32-1603, 49-1401, 49-1409, 49-1413, 49-1419, 49-1420, 49-1445 to 49-1446.04, 49-1446.06, 49-1447, 49-1453, 49-1458, 49-1461.01, 49-1463.01, 49-1467, 49-1469 to 49-1469.04, 49-1479.01, 49-1480.01 to 49-1483, 49-1486, 49-1488.01, 49-1494, 49-1496, 49-1497, 49-1499 to 49-1499.04, 49-14,101.01, 49-14,101.02, 49-14,102, 49-14,103 to 49-14,103.04, 49-14,104, 49-14,112, 49-14,115, 49-14,120, 49-14,123, 49-14,124, 49-14,125, 49-14,127, 49-14,132, 49-14,135 to 49-14,139, and 50-114.05, Reissue Revised Statutes of Nebraska; to change, transfer, and repeal provisions relating to political accountability and disclosure; to change amount and distribution of fees; to

change and provide penalties; to repeal obsolete provisions; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 49-1483.01, 49-14,123.02, and 49-14,130, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Cornett	Howard	Louden	Schimek
Beutler	Cudaback	Hudkins	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Thompson
Chambers	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Baker

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

### **LEGISLATIVE BILL 268.**

A BILL FOR AN ACT relating to the Volunteer Emergency Responders Recruitment and Retention Act; to amend sections 35-1310, 35-1312, 35-1320, 35-1324, and 35-1330, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to administration of service award programs; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Cornett	Howard	Louden	Schimek
Beutler	Cudaback	Hudkins	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Thompson
Chambers	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Baker

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

#### **LEGISLATIVE BILL 439.** With Emergency.

A BILL FOR AN ACT relating to grain; to amend sections 75-902, 75-903, 75-905, and 88-543, Reissue Revised Statutes of Nebraska, and sections 88-526 and 88-528, Revised Statutes Supplement, 2004; to change provisions relating to grain dealers and grain warehouses; to provide requirements relating to direct delivery grain; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Aguilar	Cornett	Howard	Louden	Schimek
Beutler	Cudaback	Hudkins	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Thompson
Chambers	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Baker

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **GENERAL FILE**

**LEGISLATIVE RESOLUTION 2CA.** Read. Considered.

Senator Chambers offered the following amendment:

FA139

On page 3, in line 15 after "property" insert "for the purposes specified in this subsection".

The Chambers amendment was adopted with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

Senator Chambers offered the following amendment:

FA140

On page 2, in line 25 strike "primarily" and after "for" insert "any".

Pending.

**SPEAKER BRASHEAR PRESIDING**

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 39, 121, 131, 144, 234, 299, 352, 485, 492, 516, 668, 684, 684A, 675, 675A, 205, 335, 570, 217, 242, 268, and 439.

### **GENERAL FILE**

**LEGISLATIVE RESOLUTION 2CA.** The Chambers pending amendment, FA140, found in this day's Journal, was renewed.

**SENATOR CUDABACK PRESIDING**

Senator Chambers withdrew his amendment.

Advanced to E & R for review with 27 ayes, 4 nays, 10 present and not voting, and 8 excused and not voting.

### **STANDING COMMITTEE REPORT** **Judiciary**

**LEGISLATIVE BILL 454.** Placed on General File as amended.

(Standing Committee amendment, AM0810, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Patrick J. Bourne, Chairperson

### **SELECT COMMITTEE REPORTS**

#### **Enrollment and Review**

**LEGISLATIVE BILL 361.** Placed on Select File as amended.

(E & R amendment, AM7070, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 401.** Placed on Select File as amended.

E & R amendment to LB 401:

AM7073

- 1 1. Due to the passage of LB 98, in the Standing
- 2 Committee amendments, AM0369:
- 3 a. On page 4, line 10; and page 7, line 6, strike "an
- 4 absentee ballot" and insert "a ballot for early voting";
- 5 b. On page 7, lines 9, 15, 17, 22, 23, and 26, strike
- 6 "absentee"; and in line 12 strike "absentee ballot" and insert
- 7 "original ballot for early voting"; and
- 8 c. On page 8, lines 8 and 11, strike "absentee ballots"
- 9 and insert "ballots for early voting".
- 10 2. On page 1, strike beginning with "section" in line 1
- 11 through line 4 and insert "sections 32-101, 32-903, 32-904, 32-915,
- 12 32-939, and 32-1041, Reissue Revised Statutes of Nebraska; to
- 13 change provisions relating to registering to vote, precincts,
- 14 polling places, voting, and ballots; to harmonize provisions; and
- 15 to repeal the original sections."

**LEGISLATIVE BILL 753.** Placed on Select File as amended.

E & R amendment to LB 753:

AM7074

- 1 1. On page 1, strike lines 2 through 4 and insert
- 2 "77-2701.16, Revised Statutes Supplement, 2004; to redefine gross
- 3 receipts from construction services provided by a public utility;
- 4 to repeal the original section; and to declare an emergency."

**LEGISLATIVE BILL 161.** Placed on Select File as amended.

(E & R amendment, AM7072, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 551.** Placed on Select File as amended.

E & R amendment to LB 551:

AM7075

- 1 1. On page 1, strike lines 2 through 5 and insert "to
- 2 amend sections 71-810, 71-811, 71-813, and 71-815 to 71-818,

3 Revised Statutes Supplement, 2004; to establish a data and  
4 information system; to provide duties for the Division of  
5 Behavioral Health Services; to require a contract as prescribed; to  
6 change provisions relating to membership on a council, on advisory  
7 committees, and on a commission; to change provisions relating to  
8 the Compulsive Gamblers Assistance Fund; to repeal the original  
9 sections; and to declare an emergency.".

(Signed) Michael Flood, Chairperson

### **AMENDMENTS - Print in Journal**

Senators Raikes and Stuhr filed the following amendment to LB 689:  
AM1000

- 1 1. Strike original section 3.
- 2 2. On page 2, strike lines 20 through 23 and all
- 3 amendments thereto and insert "The members listed in subdivisions
- 4 (1), (4) through (8), and (11) through (15) of this section shall
- 5 be appointed by the Executive Board of the Legislative Council.
- 6 The members listed in subdivisions (9) and (10) of this section
- 7 shall be appointed by the".
- 8 3. On page 3, strike beginning with "for" in line 19
- 9 through "classrooms" in line 20.
- 10 4. Renumber the remaining section accordingly.

Senators Raikes and Stuhr filed the following amendment to LB 689A:  
AM1025

- 1 1. On page 2, line 8, strike "\$10,000,000" and insert
- 2 "\$8,000,000"; in line 9 strike "State"; and strike line 10 and
- 3 insert "Administrative Services, for Program 101, to aid in
- 4 carrying out the recommendations of the Distance Education
- 5 Enhancement Task Force pursuant to".

Senator Thompson filed the following amendment to LB 480:  
AM0948

(Amendments to Standing Committee amendments, AM0802)

- 1 1. On page 2, lines 4 and 5, strike the new language.

Senator Brashear filed the following amendment to LB 645:  
AM1036

(Amendments to Standing Committee amendments, AM0316)

- 1 1. Strike amendment 1 and insert the following new
- 2 amendments:
- 3 "1. Insert the following new sections:
- 4 'Sec. 4. (1) Except as otherwise provided in this
- 5 section, an agency or political subdivision of the state or a
- 6 public power supplier shall not enter into any lease, license, or
- 7 other agreement with any telecommunications common carrier,
- 8 telecommunications contract carrier, or any other person, for the

9 use for a fee or charge of the infrastructure or facilities of the  
10 agency, political subdivision, or public power supplier in order to  
11 provide wholesale advanced telecommunications services, information  
12 services, telecommunications services, or video services.

13 (2) The prohibition described in subsection (1) of this  
14 section shall not apply if:

15 (a) The report required pursuant to section 5 of this act  
16 has been provided to the Legislative Council; and

17 (b) Specific authority to provide such service has been  
18 authorized by the Legislature.

19 (3) The prohibition described in subsection (1) of this  
20 section shall not apply to a lease, license, or other agreement for  
21 the use of attachments to poles, ducts, conduits, or rights-of-way.

22 Sec. 5. (1) The Transportation and Telecommunications  
23 Committee of the Legislature and the Natural Resources Committee of

1 the Legislature shall conduct a joint study to determine the  
2 economic and policy implications of agencies or political  
3 subdivisions of the state or public power suppliers providing to a  
4 telecommunications common carrier, telecommunications contract  
5 carrier, or any other person, on a wholesale basis, advanced  
6 telecommunications services, information services,  
7 telecommunications services, or video services.

8 (2) The study shall include, but not be limited to, the  
9 examination of the following issues:

10 (a) The implications of agencies or political  
11 subdivisions of the state or public power suppliers offering  
12 wholesale service upon retail competition for advanced  
13 telecommunications services, information services,  
14 telecommunications services, and video services and private sector  
15 investment in networks for the provision of such services;

16 (b) The need and necessity for the provision of wholesale  
17 advanced telecommunications services, information services,  
18 telecommunications services, and video services by agencies or  
19 political subdivisions of the state and public power suppliers; and

20 (c) Issues regarding the establishment of fair and  
21 equitable requirements for the regulation and taxation of the  
22 provision of wholesale advanced telecommunications services,  
23 information services, telecommunications services, and video  
24 services by agencies or political subdivisions of the state and  
25 public power suppliers.

26 (3) The committees shall report the results of such study  
27 to the Legislative Council by December 31, 2005.'

1 2. On page 6, line 17, strike 'this section' and insert  
2 'sections 3 to 5 of this act'; and in line 28 after '(c)' insert  
3 'Internal telecommunications purposes includes meter reading,  
4 outage detection, demand-side management, and other information  
5 services related to supplying electric service that may be provided  
6 using the electric utility infrastructure or information service  
7 facilities of a public power supplier;

8 (d) Public power supplier means a public power district,  
 9 a public power and irrigation district, a municipality, a  
 10 registered group of municipalities, an electric cooperative, an  
 11 electric membership association, a joint entity formed under the  
 12 Interlocal Cooperation Act, a joint public agency formed under the  
 13 Joint Public Agency Act, an agency formed under the Municipal  
 14 Cooperative Financing Act, or any other governmental entity  
 15 providing electric service;

16 (e)'.

17 3. On page 7, line 2, strike '(d)' and insert '(f)'; in  
 18 line 4 after 'in' insert 'subsection (1) of section 70-625 and'; in  
 19 line 6 after 'state' insert 'or a public power supplier'; in line 7  
 20 strike ', wholesale, or any other'; and in line 11 after the period  
 21 insert 'Nothing in this section shall prohibit an agency or a  
 22 political subdivision of the state or a public power supplier from  
 23 providing any such services for its own use, either individually or  
 24 jointly through the Interlocal Cooperation Act, the Joint Public  
 25 Agency Act, or the Municipal Cooperative Financing Act, for  
 26 internal telecommunications purposes or to carry out the public  
 27 purposes of the agency, political subdivision, or public power  
 1 supplier'.

2 4. Renumber the remaining sections accordingly."

## PRESENTED TO THE GOVERNOR

Presented to the Governor on April 1, 2005, at 11:25 a.m. were the following: LBs 39, 121, 131, 144, 234, 299e, 352, 485, 492, 516, 668, 684, 684Ae, 675, 675A, 205, 335, 570, 217, 242, 268, and 439e.

(Signed) Jamie Kruse  
 Clerk of the Legislature's Office

## RESOLUTIONS

### LEGISLATIVE RESOLUTION 71. Introduced by Schrock, 38.

WHEREAS, Brian Johnson, son of Steve and Liz Johnson, of Fairfield, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Brian Johnson has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a

community service project approved by the troop and the scout council. Brian has earned 22 merit badges. For his Eagle Scout community service project, Brian designed, estimated costs for, and supervised the building of dugouts for the Fairfield softball field in May of 2004; and

WHEREAS, Brian Johnson is also an active member of the Fairfield Community Church and built a stand for the church to store its banners; and

WHEREAS, Brian Johnson lettered in football, wrestling, and track at Clay Center High School and will graduate on May 7, 2005; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, on Saturday, April 23, 2005, Brian Johnson will receive the rank of Eagle Scout, thereby, through his hard work and perseverance, joining other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Brian Johnson on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Brian Johnson.

Laid over.

#### **LEGISLATIVE RESOLUTION 72.** Introduced by Howard, 9.

WHEREAS, Judge Colleen R. Buckley served the youth of Omaha and Douglas County for more than forty years; and

WHEREAS, Judge Buckley was a strong leader for women in the field of law, having been the only woman in her Creighton University graduating class of 1963, at a time in Nebraska when female attorneys were rare; and

WHEREAS, Judge Buckley became the first attorney director of the Omaha Legal Aid Society just one year after graduating fourth in her class from Creighton University; and

WHEREAS, Judge Colleen R. Buckley served as Deputy Douglas County Attorney and prosecuted cases in Juvenile Court from 1968 to 1972; and

WHEREAS, Judge Colleen R. Buckley was the first woman to hold the office of Juvenile Court Judge in Douglas County when she was appointed by Governor J. J. Exon in 1972; and

WHEREAS, Judge Buckley was awarded with honorary Doctor of Humane Letters from the College of St. Mary in 1976; and

WHEREAS, Judge Colleen R. Buckley was the first woman honored by Creighton Law School with the Alumni Merit Award in 1990; and

WHEREAS, Judge Buckley was honored with the Boys Town "Spirit of Youth" Award in 1999, recognizing her for twenty-one years of helping children while serving on the juvenile court bench.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Legislature recognizes and honors the memory of the honorable Judge Colleen R. Buckley and her achievements in improving the lives of children and youth.

2. That the Clerk of the Legislature send a copy of this resolution to the family of honorable Judge Colleen R. Buckley.

Laid over.

### **EXPLANATION OF VOTES**

Had I been present, I would have voted "aye" on final passage of LBs 299, 352, 485, 492, 516, and 668.

(Signed) Vickie D. McDonald

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Kremer asked unanimous consent to have his name added as cointroducer to LB 389. No objections. So ordered.

Senator Howard asked unanimous consent to have her name added as cointroducer to LB 577. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were FFA members from Hyannis; 40 fourth-grade students and teachers from Plattsmouth; 8 third- and fourth-grade students and teacher from Sutton Christian School; former Senator Lee Rupp from Monroe and Derek Iwan from Columbus; Rick and Ryan Sudbeck from Hartington; 104 fourth-grade students and teacher from Ackerman School, Omaha; and Dani Arens and Natalie Stout from Crofton.

### **ADJOURNMENT**

At 11:56 a.m., on a motion by Senator Engel, the Legislature adjourned until 10:00 a.m., Monday, April 4, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**FIFTY-FIFTH DAY - APRIL 4, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FIFTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, April 4, 2005

**PRAYER**

The prayer was offered by Pastor Jim Miller, Grace United Church, Hastings.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Baker, Foley, and Janssen who were excused; and Senators Bourne, Landis, and Loudon who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

Page 1053, line 20, strike "May 13" and insert "May 12".  
The Journal for the fifty-third day was approved as corrected.

The Journal for the fifty-fourth day was approved.

**SELECT FILE**

**LEGISLATIVE BILL 588.** E & R amendment, AM7061, found on page 913, was adopted.

Senator Beutler renewed his pending amendment, AM0979, found on page 1018.

The Beutler amendment was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

Senator Smith renewed his pending amendment, AM0942, found on page 1023.

Senator Smith offered the following amendment to his pending amendment:  
FA141

Amend AM0942

line 12 insert before "Prior", 2 years

Senator Smith withdrew his amendment.

The Smith pending amendment, AM0942, found on page 1023 and considered in this day's Journal, was renewed.

Senator Smith moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

Senator Smith requested a roll call vote on his amendment.

Voting in the affirmative, 14:

Burling	Friend	Jensen	Pedersen, Dw.	Stuhr
Erdman	Heidemann	Kremer	Redfield	Stuthman
Flood	Hudkins	Langemeier	Smith	

Voting in the negative, 26:

Aguilar	Connealy	Kopplin	Pederson, D.	Thompson
Beutler	Cornett	Kruse	Preister	Wehrbein
Brashear	Engel	Landis	Price	
Byars	Fischer	McDonald	Raikes	
Chambers	Howard	Mines	Schimek	
Combs	Johnson	Pahls	Synowiecki	

Present and not voting, 5:

Bourne	Brown	Cudaback	Cunningham	Schrock
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Excused and not voting, 4:

Baker	Foley	Janssen	Louden
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The Smith amendment lost with 14 ayes, 26 nays, 5 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Beutler offered the following amendment:

AM1041

- 1 1. Insert the following new section:
- 2 "Sec. 4. Section 50-1205.01, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 50-1205.01. ~~(1) Except as provided in subsections (2)~~
- 5 ~~and (3) of this section, performance~~ Performance audits done under
- 6 the terms of the Legislative Performance Audit Act shall be

7 conducted in accordance with the ~~general~~ generally accepted  
 8 government auditing standards for performance audits, ~~the Field~~  
 9 ~~Work Standards for Performance Audits, and the Reporting Standards~~  
 10 ~~for Performance Audits~~ contained in the Government Auditing  
 11 Standards (2003 Revision), published by the Comptroller General of  
 12 the United States, General Accounting Office.  
 13 ~~(2) General standards relating to continuing education~~  
 14 ~~for those involved in performance audits may be met when time and~~  
 15 ~~budgetary constraints allow.~~  
 16 ~~(3) General standards relating to external quality~~  
 17 ~~control review may be implemented at the committee's discretion."~~  
 18 2. On page 26, line 2, strike "50-1205" and insert  
 19 "50-1205.01".  
 20 3. Renumber the remaining sections accordingly.

Senator Smith offered the following motion:  
 Bracket LB 588 until April 27.

Senator Smith withdrew his motion to bracket.

The Beutler amendment was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Senator Beutler moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

Senator Smith requested a roll call vote, in reverse order, on the advancement of the bill.

Voting in the affirmative, 26:

Aguilar	Combs	Kopplin	Preister	Thompson
Beutler	Connealy	Kruse	Price	Wehrbein
Bourne	Cudaback	McDonald	Raikes	
Brashear	Engel	Mines	Schimek	
Byars	Howard	Pahls	Schrock	
Chambers	Johnson	Pederson, D.	Synowiecki	

Voting in the negative, 15:

Brown	Cunningham	Flood	Kremer	Pedersen, Dw.
Burling	Erdman	Friend	Landis	Redfield
Cornett	Fischer	Jensen	Langemeier	Smith

Present and not voting, 3:

Heidemann	Stuhr	Stuthman
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Excused and not voting, 5:

Baker                  Foley                  Hudkins                  Janssen                  Louden

Advanced to E & R for engrossment with 26 ayes, 15 nays, 3 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 664.** E & R amendment, AM7067, found on page 995, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 664A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 274.** E & R amendment, AM7068, found on page 1044, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 111.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 111A.** Advanced to E & R for engrossment.

### GENERAL FILE

**LEGISLATIVE BILL 273.** Senators Brashear and Cunningham asked unanimous consent to bracket until April 19, 2005. No objections. So ordered.

**LEGISLATIVE BILL 82.** Title read. Considered.

The Standing Committee amendment, AM0666, printed separately and referred to on page 865, was adopted with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 351.** Title read. Considered.

The Standing Committee amendment, AM0794, found on page 853, was considered.

Senator Schrock renewed his pending amendment, AM0885, found on page 975, to the Standing Committee amendment.

Pending.

**RESOLUTION****LEGISLATIVE RESOLUTION 73.** Introduced by Combs, 32.

WHEREAS, DeLores Kennedy has been a leader of Junior Girl Scout Troop 157 in Crete for 39 years; and

WHEREAS, in addition to her years of local leadership, DeLores Kennedy has been active in Girl Scouts at the council level as well, serving on the Board of Directors of Homestead Girl Scout Council and its Nominating Committee and as Area Association chairwoman and co-chairwoman of the Friends of Girl Scouts Drive in Crete; and

WHEREAS, DeLores Kennedy has received awards from the National Association of Girl Scouts of the U. S. A., including the Thanks Badge II, the highest honor bestowed on an adult volunteer, has received the Service to Mankind Award from Sertoma, and is an Admiral in the Great Navy of the State of Nebraska; and

WHEREAS, hundreds of girls across two generations have benefited from the leadership and guidance of DeLores Kennedy in Girl Scouts; and

WHEREAS, an open house will be held on Sunday, April 10, to celebrate DeLores Kennedy's 39 years of service to Crete's Troop 157, to Homestead Girl Scout Council, and to the National Association of Girl Scouts of the U. S. A.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates DeLores Kennedy and expresses its appreciation and admiration for her long service to Girl Scouts in Crete, in Nebraska, and in the United States.

2. That a copy of this resolution be sent to DeLores Kennedy.

Laid over.

**VISITORS**

Visitors to the Chamber were twelfth-grade students from Pleasanton; 5 members of the Delta Sigma Theta Sorority Alumni Chapter from Omaha; 20 Girl Scouts and leaders from western Nebraska; 16 fourth-grade students and teacher from St. Francis Elementary School, Humphrey; and former Senator Arlene Nelson from Grand Island.

**RECESS**

At 11:58 a.m., on a motion by Senator Schimek, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Baker, Foley, and Janssen who were excused; and Senators Combs and Loudon who were excused until they arrive.

**GENERAL FILE**

**LEGISLATIVE BILL 351.** The Schrock pending amendment, AM0885, found on page 975 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

The Schrock amendment was adopted with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**LEGISLATIVE BILL 276.** Placed on Select File as amended.  
E & R amendment to LB 276:  
AM7078

- 1 1. In the Standing Committee amendments, AM0417, on page 22, line 4, strike "and in lines 5 and 6" and insert "in line 5";
- 3 and in line 5 after the quotation mark insert "; and in line 6
- 4 strike 'minibike, or all-terrain vehicle'".
- 5 2. On page 3, line 20, strike "of" and insert "or".

**LEGISLATIVE BILL 682.** Placed on Select File.

**LEGISLATIVE BILL 389.** Placed on Select File.

**LEGISLATIVE BILL 389A.** Placed on Select File.

**LEGISLATIVE BILL 193.** Placed on Select File as amended.  
E & R amendment to LB 193:  
AM7076

- 1 1. In the Standing Committee amendments, AM0375, on page 22, line 12, after "coalition" insert an underscored comma.
- 3 2. On page 1, line 2, strike beginning with "43-2402"
- 4 through the second comma and insert "43-2404.01".

(Signed) Michael Flood, Chairperson

**AMENDMENTS - Print in Journal**

Senator Cunningham filed the following amendment to LB 739:  
AM1029

(Amendments to E & R amendments, AM7071)

- 1 1. On page 27, line 25, strike "voluntarily but" and
- 2 insert "but voluntarily"; in line 26 strike the comma and insert
- 3 "at the place of employment"; and in line 27 before the semicolon
- 4 insert "between household members".
- 5 2. On page 55, line 24, after "abuse" insert "as defined
- 6 in section 42-903 between household members".

Senator Jensen filed the following amendment to LB 161:  
AM1044

(Amendments to E & R amendments, AM7072)

- 1 1. Insert the following new sections:
- 2 "Section 1. Section 14-405, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 14-405. Such regulations, restrictions, and boundaries
- 5 may from time to time be amended, supplemented, changed, modified,
- 6 or repealed. When a protest against a change of boundaries is
- 7 presented to the city clerk at least six days prior to the city
- 8 council vote on such change, and such change is not in accordance
- 9 with the comprehensive development plan, such change shall not
- 10 become effective except by a favorable vote of five-sevenths of all
- 11 members of the city council. The protest shall be in writing,
- 12 signed, and sworn and acknowledged pursuant to section 64-206 by
- 13 the required owners. For purposes of this section, the required
- 14 owners ~~shall mean~~ means those fee simple owners of record as
- 15 recorded by the register of deeds owning at least twenty percent of
- 16 the area: (1) Included in the proposed change; (2) abutting either
- 17 side of the proposed change; (3) abutting the rear of the proposed
- 18 change; (4) abutting the front of the proposed change; or (5)
- 19 directly opposite of the proposed change on the other side of a
- 20 dedicated public right-of-way and extending fifty feet on either
- 21 side of such opposite lot.
- 22 Sec. 7. Section 19-905, Reissue Revised Statutes of
- 23 Nebraska, is amended to read:
- 1 19-905. Regulations, restrictions, and boundaries
- 2 authorized to be created pursuant to sections 19-901 to 19-915 may
- 3 from time to time be amended, supplemented, changed, modified, or
- 4 repealed. In case of a protest against such change, signed by the
- 5 owners of twenty percent or more either of the area of the lots
- 6 included in such proposed change, or of those immediately adjacent
- 7 on the sides and in the rear thereof extending three hundred feet
- 8 therefrom, and of those directly opposite thereto extending three
- 9 hundred feet from the street frontage of such opposite lots, and
- 10 such change is not in accordance with the comprehensive development
- 11 plan, such amendment shall not become effective except by the

12 favorable vote of three-fourths of all the members of the  
13 legislative body of such municipality. The provisions of section  
14 19-904 relative to public hearings and official notice shall apply  
15 equally to all changes or amendments. In addition to the  
16 publication of the notice therein prescribed, a notice shall be  
17 posted in a conspicuous place on or near the property on which  
18 action is pending. Such notice shall not be less than eighteen  
19 inches in height and twenty-four inches in width with a white or  
20 yellow background and black letters not less than one and one-half  
21 inches in height. Such posted notice shall be so placed upon such  
22 premises that it is easily visible from the street nearest the same  
23 and shall be so posted at least ten days prior to the date of such  
24 hearing. It shall be unlawful for anyone to remove, mutilate,  
25 destroy, or change such posted notice prior to such hearing. Any  
26 person so doing shall be deemed guilty of a misdemeanor. If the  
27 record title owners of any lots included in such proposed change be  
1 nonresidents of the municipality, then a written notice of such  
2 hearing shall be mailed by certified mail to them addressed to  
3 their last-known addresses at least ten days prior to such hearing.  
4 At the option of the legislative body of the municipality, in place  
5 of the posted notice provided above, the owners or occupants of the  
6 real estate to be zoned or rezoned and all real estate located  
7 within three hundred feet of the real estate to be zoned or rezoned  
8 may be personally served with a written notice thereof at least ten  
9 days prior to the date of the hearing, if they can be served with  
10 such notice within the county where such real estate is located.  
11 Where such notice cannot be served personally upon such owners or  
12 occupants in the county where such real estate is located, a  
13 written notice of such hearing shall be mailed to such owners or  
14 occupants addressed to their last-known addresses at least ten days  
15 prior to such hearing. The provisions of this section in reference  
16 to notice shall not apply (1) in the event of a proposed change in  
17 such regulations, restrictions, or boundaries throughout the entire  
18 area of an existing zoning district or of such municipality, or (2)  
19 in the event additional or different types of zoning districts are  
20 proposed, whether or not such additional or different districts are  
21 made applicable to areas, or parts of areas, already within a  
22 zoning district of the municipality, but only the requirements of  
23 section 19-904 shall be applicable.

24 Sec. 10. Section 23-165, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 23-165. Such regulations, restrictions, and boundaries  
27 may from time to time be amended, supplemented, changed, modified,  
1 or repealed. In case, however, of a protest against such change,  
2 and such change is not in accordance with the comprehensive  
3 development plan, signed by the owners of twenty percent or more  
4 either of the area of the lots included in such proposed change, or  
5 of those immediately adjacent in the rear thereof extending one  
6 hundred feet therefrom, or to those directly opposite thereto

7 extending one hundred feet from the street frontage of such  
 8 opposite lots, such amendments shall not become effective except by  
 9 the favorable vote of two-thirds majority of the county board. The  
 10 provisions of section 23-164 relative to public hearings and  
 11 official notice shall apply equally to all changes or amendments.".  
 12 2. Amend the repealer and renumber the remaining  
 13 sections accordingly.

## **GENERAL FILE**

**LEGISLATIVE BILL 709.** Title read. Considered.

The Standing Committee amendment, AM0772, found on page 850, was considered.

Senator Beutler renewed his pending amendment, AM1027, found on page 1056, to the Standing Committee amendment.

**SENATOR SCHIMEK PRESIDING**

**SENATOR CUDABACK PRESIDING**

Pending.

## **STANDING COMMITTEE REPORTS** **Nebraska Retirement Systems**

**LEGISLATIVE BILL 365.** Placed on General File.

**LEGISLATIVE BILL 165.** Indefinitely postponed.

(Signed) Elaine Stuhr, Chairperson

## **AMENDMENTS - Print in Journal**

Senator Erdman filed the following amendment to LB 709:  
 AM1049

(Amendments to Standing Committee amendments, AM0772)

- 1 1. Insert the following new section:
- 2 "Sec. 6. (1) The Medicaid Reform Advisory Council is
- 3 established. The council shall consist of five persons appointed
- 4 by the Governor and five persons appointed by the chairperson of
- 5 the Health and Human Services Committee of the Legislature. The
- 6 council shall consist of, but not be limited to, at least one
- 7 representative from each of the following classes of persons:
- 8 Health care providers, health care consumers and consumer
- 9 advocates, business representatives, insurers, and elected
- 10 officials.
- 11 (2) The council shall meet monthly with persons

12 designated by the Governor and the chairperson of the Health and  
 13 Human Services Committee under section 5 of this act and shall  
 14 review monthly reports submitted by such designees under such  
 15 section. Minutes of such meetings shall be available to the public  
 16 and provided to the Governor and members of the Health and Human  
 17 Services Committee of the Legislature.

18 (3) Members of the council shall serve without  
 19 compensation for such service but shall be reimbursed for their  
 20 actual and necessary expenses as provided in sections 81-1174 to  
 21 81-1177."

22 2. On page 1, line 3, strike "6" and insert "7".

23 3. On page 2, line 16, after "district" insert "during  
 1 preparation of the plan and"; in line 18 after the period insert  
 2 "Such reports shall be reviewed by the Medicaid Reform Advisory  
 3 Council established in section 6 of this act and shall be available  
 4 to the public"; and in line 27 strike "shall" and insert "may".

5 4. On page 3, line 3, strike "7 to 11" and insert "8 to  
 6 12".

7 5. On page 4, line 20, strike "shall" and insert "may";  
 8 and in line 22 strike "10" and insert "11".

9 6. Renumber the remaining sections accordingly.

Senator Beutler filed the following amendment to LB 709:

FA142

Amend AM0772

On lines 3 and 4, page 1 strike "five" and insert "six"

On line 6, page 1 strike "one" and insert "two"

Add the following new section: "The council shall review the final plan  
 submitted on December 1, 2005, and issue its recommendations with respect  
 to the plan to the governor and the legislature by December 14, 2005."

Senator Beutler filed the following amendment to LB 709:

FA143

Amend AM0772

On line 14, page 1 strike "has" and insert "may"

Senator Byars filed the following amendment to LB 709:

AM1004

(Amendments to Standing Committee amendments, AM0772)

- 1 1. On page 1, line 23, after "spending" insert "without
- 2 shifting the cost of providing medical services to county
- 3 government or to the providers of care".

Senator Bourne filed the following amendment to LB 480:

AM1052

(Amendments to Standing Committee amendments, AM0802)

- 1 1. Insert the following new sections:
- 2 "Sec. 6. Retail tobacco business means a sole
- 3 proprietorship, a partnership, a limited liability company, a

4 corporation, or another entity (1) in which the primary activity is  
5 the retail sale of tobacco, tobacco products, and accessories and  
6 (2) as to which the sale of other products or services is merely  
7 incidental.

8 Sec. 11. Section 71-5712, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 71-5712. Any person who violates ~~section 71-5707~~ the  
11 Nebraska Clean Indoor Air Act shall be guilty of a Class V  
12 misdemeanor.

13 Sec. 13. Section 77-2602, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 77-2602. (1) Every person engaged in distributing or  
16 selling cigarettes at wholesale in this state shall pay to the Tax  
17 Commissioner of this state a special privilege tax. This shall be  
18 in addition to all other taxes. It shall be paid prior to or at  
19 the time of the sale, gift, or delivery to the retail dealer in the  
20 several amounts as follows: On each package of cigarettes  
21 containing not more than twenty cigarettes, sixty-four cents per  
22 package; and on packages containing more than twenty cigarettes,  
23 the same tax as provided on packages containing not more than  
1 twenty cigarettes for the first twenty cigarettes in each package  
2 and a tax of one-twentieth of the tax on the first twenty  
3 cigarettes on each cigarette in excess of twenty cigarettes in each  
4 package.

5 (2) Commencing July 1, 1994, and continuing until October  
6 1, 2004, the State Treasurer shall place the equivalent of  
7 twenty-one cents of such tax in the General Fund. Commencing  
8 October 1, 2004, the State Treasurer shall place the equivalent of  
9 forty-nine cents of such tax in the General Fund. The State  
10 Treasurer shall reduce the amount placed in the General Fund under  
11 this subsection by the amount prescribed in subdivision (3)(d) of  
12 this section. For purposes of this section, the equivalent of a  
13 specified number of cents of the tax shall mean that portion of the  
14 proceeds of the tax equal to the specified number divided by the  
15 tax rate per package of cigarettes containing not more than twenty  
16 cigarettes.

17 (3) The State Treasurer shall distribute the remaining  
18 proceeds of such tax in the following order:

19 (a) First, beginning July 1, 1980, the State Treasurer  
20 shall place the equivalent of one cent of such tax in the Nebraska  
21 Outdoor Recreation Development Cash Fund. For fiscal year  
22 distributions occurring after FY1998-99, the distribution under  
23 this subdivision shall not be less than the amount distributed  
24 under this subdivision for FY1997-98. Any money needed to increase  
25 the amount distributed under this subdivision to the FY1997-98  
26 amount shall reduce the distribution to the General Fund;

27 (b) Second, beginning July 1, 1993, the State Treasurer  
1 shall place the equivalent of three cents of such tax in the  
2 Department of Health and Human Services Finance and Support Cash

3 Fund to carry out sections 81-637 to 81-640. For fiscal year  
4 distributions occurring after FY1998-99, the distribution under  
5 this subdivision shall not be less than the amount distributed  
6 under this subdivision for FY1997-98. Any money needed to increase  
7 the amount distributed under this subdivision to the FY1997-98  
8 amount shall reduce the distribution to the General Fund;

9 (c) Third, beginning July 1, 2001, and continuing until  
10 October 1, 2002, the State Treasurer shall place the equivalent of  
11 five cents of such tax in the Building Renewal Allocation Fund.  
12 Beginning October 1, 2002, and continuing until all the purposes of  
13 the Deferred Building Renewal Act have been fulfilled, the State  
14 Treasurer shall place the equivalent of seven cents of such tax in  
15 the Building Renewal Allocation Fund. The Legislature shall  
16 appropriate each fiscal year all sums inuring to the fund, plus  
17 interest earnings, for the Task Force for Building Renewal to be  
18 used to carry out its duties and to fulfill the purposes of the  
19 Deferred Building Renewal Act. Unexpended balances existing at the  
20 end of each fiscal year shall be, and are hereby, reappropriated.  
21 The distribution under this subdivision shall not be less than the  
22 amount distributed under this subdivision for FY1997-98. Any money  
23 needed to increase the amount distributed under this subdivision to  
24 the FY1997-98 amount shall reduce the distribution to the General  
25 Fund;

26 (d) Fourth, beginning July 1, 1994, and continuing until  
27 July 1, 2003, the State Treasurer shall place in the Municipal  
1 Infrastructure Redevelopment Fund the sum of three million dollars  
2 each fiscal year to carry out the Municipal Infrastructure  
3 Redevelopment Fund Act. Commencing July 1, 2003, and continuing  
4 until July 1, 2005, the State Treasurer shall place in such fund  
5 the sum of five hundred twenty thousand dollars each fiscal year to  
6 carry out the act. Commencing July 1, 2005, and continuing until  
7 July 1, 2009, the State Treasurer shall place in such fund the sum  
8 of three million dollars each fiscal year to carry out the act.  
9 The Legislature shall appropriate the sum of five hundred twenty  
10 thousand dollars each year for fiscal years 2003-04 and 2004-05.  
11 The Legislature shall appropriate the sum of three million dollars  
12 each year for fiscal year 2005-06 through fiscal year 2008-09;

13 (e) Fifth, beginning July 1, 2001, the State Treasurer  
14 shall place the equivalent of two cents of such tax in the  
15 Information Technology Infrastructure Fund;

16 (f) Sixth, beginning July 1, 2001, and continuing until  
17 June 30, 2016, the State Treasurer shall place one million dollars  
18 each fiscal year in the City of the Primary Class Development Fund;  
19 except that the State Treasurer shall not place such amount in such  
20 fund if a city of the primary class has established an ordinance  
21 described in subdivision (2) of section 71-5702. If necessary, the  
22 State Treasurer shall reduce the distribution of tax proceeds to  
23 the General Fund pursuant to subsection (2) of this section by such  
24 amount required to fulfill the one million dollars to be

25 distributed pursuant to this subdivision;

26 (g) Seventh, beginning July 1, 2001, and continuing until  
27 June 30, 2016, the State Treasurer shall place one million five  
1 hundred thousand dollars each fiscal year in the City of the  
2 Metropolitan Class Development Fund. If necessary, the State  
3 Treasurer shall reduce the distribution of tax proceeds to the  
4 General Fund pursuant to subsection (2) of this section by such  
5 amount required to fulfill the one million five hundred thousand  
6 dollars to be distributed pursuant to this subdivision; and

7 (h) Eighth, beginning October 1, 2002, and continuing  
8 until October 1, 2004, the State Treasurer shall place the  
9 equivalent of twenty-eight cents of such tax in the Cash Reserve  
10 Fund.

11 (4) If, after distributing the proceeds of such tax  
12 pursuant to subsections (2) and (3) of this section, any proceeds  
13 of such tax remain, the State Treasurer shall place such remainder  
14 in the Nebraska Capital Construction Fund.

15 (5) The Legislature hereby finds and determines that the  
16 projects funded from the Municipal Infrastructure Redevelopment  
17 Fund and the Building Renewal Allocation Fund are of critical  
18 importance to the State of Nebraska. It is the intent of the  
19 Legislature that the allocations and appropriations made by the  
20 Legislature to such funds or, in the case of allocations for the  
21 Municipal Infrastructure Redevelopment Fund, to the particular  
22 municipality's account not be reduced until all contracts and  
23 securities relating to the construction and financing of the  
24 projects or portions of the projects funded from such funds or  
25 accounts of such funds are completed or paid or, in the case of the  
26 Municipal Infrastructure Redevelopment Fund, the earlier of such  
27 date or July 1, 2009, and that until such time any reductions in

1 the cigarette tax rate made by the Legislature shall be  
2 simultaneously accompanied by equivalent reductions in the amount  
3 dedicated to the General Fund from cigarette tax revenue. ~~Any~~  
4 Allocations and appropriations for the Municipal Infrastructure  
5 Redevelopment Fund to a particular municipality's account shall be  
6 reduced if the municipality has established an ordinance described  
7 in subdivision (2) of section 71-5702. Except as provided in  
8 subsection (6) of this section, any provision made by the  
9 Legislature for distribution of the proceeds of the cigarette tax  
10 for projects or programs other than those to (a) the General Fund,  
11 (b) the Nebraska Outdoor Recreation Development Cash Fund, (c) the  
12 Department of Health and Human Services Finance and Support Cash  
13 Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) the  
14 Building Renewal Allocation Fund, (f) the Information Technology  
15 Infrastructure Fund, (g) the City of the Primary Class Development  
16 Fund, (h) the City of the Metropolitan Class Development Fund, and  
17 (i) the Cash Reserve Fund shall not be made a higher priority than  
18 or an equal priority to any of the programs or projects specified  
19 in subdivisions (a) through (i) of this subsection.

20 (6) Any reduction in the account of a particular  
21 municipality described in subsection (5) of this section shall be  
22 transferred to the Rural Development Cash Fund.

23 Sec. 14. Section 83-3603, Revised Statutes Supplement,  
24 2004, is amended to read:

25 81-3603. The Rural Development Commission shall:

26 (1) Focus attention on and increase awareness of the  
27 opportunities and needs of rural Nebraskans;

1 (2) Advocate for rural Nebraska by proposing solutions to  
2 rural challenges;

3 (3) Strengthen community sustainability and growth in  
4 rural Nebraska through increased community-based wealth creation,  
5 expanded economic opportunity, and improved quality of life;

6 (4) Stimulate rural development innovation and foster  
7 information transfer to, from, and within rural Nebraska;

8 (5) Encourage and support continuity, coordination, and  
9 cooperation among national, state, multicommunity, and local rural  
10 development initiatives and service providers;

11 (6) Ensure that rural Nebraskans are afforded the  
12 opportunity to determine rural Nebraska's development agenda;

13 (7) Serve as an advisory body to the Governor, state  
14 agencies, and the Legislature on rural development issues;

15 (8) Establish an information clearinghouse on rural  
16 challenges and needs, development services, model initiatives,  
17 available resources, and service providers;

18 (9) Foster community-based development initiatives  
19 through multicommunity partnerships;

20 (10) Support strategic planning and research for and  
21 evaluation of rural development initiatives and service providers  
22 by administering the Nebraska Development Network Program;

23 (11) Serve as Nebraska's rural development council within  
24 the meaning of the National Rural Development Partnership by  
25 providing inventories, reports, assessments, and implementation  
26 plans as appropriate; ~~and~~

27 (12) Participate in the Partnership for Rural Nebraska;  
1 ~~and~~

2 (13) If sufficient funds are available as determined by  
3 the commission, establish a grant program to assist rural  
4 development initiatives and economic opportunities.

5 Sec. 15. Section 81-3606, Revised Statutes Supplement,  
6 2004, is amended to read:

7 81-3606. There is hereby created the Rural Development  
8 Cash Fund which shall be used by the Rural Development Commission  
9 for the purposes of sections 81-3601 to 81-3605. Money credited to  
10 the fund shall include any monetary gifts, grants, and donations,  
11 proceeds from contracts for services, and reimbursements of  
12 expenses. Money credited to the fund may include tobacco proceeds  
13 transferred from the Municipal Infrastructure Redevelopment Fund  
14 pursuant to subsection (6) of section 77-2602. Any grant funds

15 under the National Rural Development Partnership received by the  
 16 State of Nebraska from the United States Department of Agriculture  
 17 shall be allocated to the commission. Any money in the fund  
 18 available for investment shall be invested by the state investment  
 19 officer pursuant to the Nebraska Capital Expansion Act and the  
 20 Nebraska State Funds Investment Act.

21 Sec. 17. Since an emergency exists, this act takes  
 22 effect when passed and approved according to law."

23 2. On page 1, line 5, after "71-5713" insert "and  
 24 section 6 of this act"; in line 9 after the period insert "(1)";  
 25 and strike beginning with "Nothing" in line 13 through line 17 and  
 26 insert the following:

27 "(2)(a) Nothing in the act shall be construed to restrict  
 1 or prohibit a governing body of a county, city, or village from  
 2 establishing and enforcing ordinances at least as stringent as, or  
 3 more stringent than, the provisions of the Nebraska Clean Indoor  
 4 Air Act.

5 (b) Notwithstanding any provision of section 77-2602 to  
 6 the contrary, any county, city, or village having an ordinance more  
 7 stringent than the provisions of the Nebraska Clean Indoor Air Act  
 8 shall not be eligible to receive any funds distributed pursuant to  
 9 section 77-2602."; and in line 22, after "71-5706" insert "and  
 10 section 6 of this act".

11 3. On page 2, line 6, after the first comma insert  
 12 "including, but not limited to, retail tobacco businesses.".

13 4. On page 4, lines 25 and 27, after "bar" insert "or a  
 14 retail tobacco business having a retail area of less than twelve  
 15 hundred square feet".

16 5. On page 5, line 12, strike "shall" and show as  
 17 stricken and after the last stricken comma insert "may".

18 6. Amend the repealer and renumber the remaining section  
 19 accordingly.

Senator Bourne filed the following amendment to LB 480:  
 AM1051

(Amendments to Standing Committee amendments, AM0802)

1 1. Insert the following new sections:

2 "Sec. 6. Retail tobacco business means a sole  
 3 proprietorship, a partnership, a limited liability company, a  
 4 corporation, or another entity (1) in which the primary activity is  
 5 the retail sale of tobacco, tobacco products, and accessories and  
 6 (2) as to which the sale of other products or services is merely  
 7 incidental.

8 Sec. 12. (1) The Nebraska Clean Indoor Air Act  
 9 supersedes any ordinance, resolution, regulation, or requirement of  
 10 a local governing body which is inconsistent with the Nebraska  
 11 Clean Indoor Air Act.

12 (2) Subsection (1) of this section shall not apply to any  
 13 ordinance, resolution, regulation, or requirement of a local

14 governing body which is inconsistent with the Nebraska Clean Indoor  
15 Air Act and that was in effect as of February 1, 2005, and that:

16 (a) Remains in effect until the 2006 general election;

17 and

18 (b) Is approved by a majority of the qualified electors  
19 casting votes on the ballot question in the respective jurisdiction  
20 at the 2006 general election.

21 Sec. 13. Section 71-5712, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-5712. Any person who violates ~~section 71-5707~~ the  
1 Nebraska Clean Indoor Air Act shall be guilty of a Class V  
2 misdemeanor.

3 Sec. 5. Since an emergency exists, this act takes effect  
4 when passed and approved according to law."

5 2. On page 1, line 5, after "71-5713" insert "and  
6 section 6 of this act"; strike beginning with the period in line 13  
7 through "act" in line 17; and in line 22, after "71-5706" insert  
8 "and section 6 of this act".

9 3. On page 2, line 6, after the first comma insert  
10 "including, but not limited to, retail tobacco businesses.".

11 4. On page 4, lines 25 and 27, after "bar" insert "or a  
12 retail tobacco business having a retail area of less than twelve  
13 hundred square feet".

14 5. On page 5, line 12, strike "shall" and show as  
15 stricken and after the last stricken comma insert "may".

16 6. Amend the repealer and renumber the remaining section  
17 accordingly.

Senator Raikes filed the following amendment to LB 503:  
AM1046

(Amendments to Final Reading copy)

1 1. Insert the following new section:

2 "Sec. 11. Section 79-1028, Revised Statutes Supplement,  
3 2004, is amended to read:

4 79-1028. (1) A Class II, III, IV, V, or VI school  
5 district may exceed the local system's applicable allowable growth  
6 rate for (a) expenditures in support of a service which is the  
7 subject of an agreement or a modification of an existing agreement  
8 whether operated by one of the parties to the agreement or an  
9 independent joint entity or joint public agency, (b) expenditures  
10 to pay for repairs to infrastructure damaged by a natural disaster  
11 which is declared a disaster emergency pursuant to the Emergency  
12 Management Act, (c) expenditures to pay for judgments, except  
13 judgments or orders from the Commission of Industrial Relations,  
14 obtained against a school district which require or obligate a  
15 school district to pay such judgment, to the extent such judgment  
16 is not paid by liability insurance coverage of a school district,  
17 (d) expenditures to pay for sums agreed to be paid by a school  
18 district to certificated employees in exchange for a voluntary

19 termination of employment, or (e) expenditures to pay for  
 20 lease-purchase contracts approved on or after July 1, 1997, and  
 21 before July 1, 1998, to the extent the lease payments were not  
 22 budgeted expenditures for fiscal year 1997-98.

23 (2) A Class II, III, IV, V, or VI district may exceed its  
 1 applicable allowable growth rate by a specific dollar amount if the  
 2 district projects an increase in formula students in the district  
 3 over the current school year greater than twenty-five students or  
 4 greater than those listed in the schedule provided in this  
 5 subsection, whichever is less. Districts shall project increases  
 6 in formula students on forms prescribed by the department. The  
 7 department shall approve, deny, or modify the projected increases.

Average daily membership of district	Projected increase of formula students by percentage
0 - 50	10
50.01 - 250	5
250.01 - 1,000	3
1,000.01 and over	1

15 The department shall compute the district's estimated  
 16 allowable budget per pupil using the budgeted general fund  
 17 expenditures found on the budget statement for the current school  
 18 year divided by the number of formula students in the current  
 19 school year and multiplied by the district's applicable allowable  
 20 growth rate. The resulting allowable budget per pupil shall be  
 21 multiplied by the projected formula students to arrive at the  
 22 estimated budget needs for the ensuing year. The department shall  
 23 allow the district to increase its general fund budget of  
 24 expenditures for the ensuing school year by the amount necessary to  
 25 fund the estimated budget needs of the district as computed  
 26 pursuant to this subsection. On or before July 1, the department  
 27 shall make available to districts which have been allowed  
 1 additional growth pursuant to this subsection the necessary  
 2 document to recalculate the actual formula students of such  
 3 district. Such document shall be filed with the department under  
 4 subsection (1) of section 79-1024.

5 (3) A Class II, III, IV, V, or VI district may exceed its  
 6 applicable allowable growth rate by a specific dollar amount if  
 7 construction, expansion, or alteration of district buildings will  
 8 cause an increase in building operation and maintenance costs of at  
 9 least five percent. The department shall document the projected  
 10 increase in building operation and maintenance costs and may allow  
 11 a Class II, III, IV, V, or VI district to exceed the local system's  
 12 applicable allowable growth rate by the amount necessary to fund  
 13 such increased costs. The department shall compute the actual  
 14 increased costs for the school year and shall notify the district  
 15 on or before July 1 of the recovery of the additional growth  
 16 pursuant to this subsection.

17 (4) A Class II, III, IV, V, or VI district may exceed its

18 applicable allowable growth rate by a specific dollar amount if the  
19 district demonstrates to the satisfaction of the department that it  
20 will exceed its applicable allowable growth rate as a result of  
21 costs pursuant to the Retirement Incentive Plan authorized in  
22 section 79-855 or the Staff Development Assistance authorized in  
23 section 79-856. The department shall compute the amount by which  
24 the increased cost of such program or programs exceeds the  
25 district's applicable allowable growth rate and shall allow the  
26 district to increase its general fund expenditures by such amount  
27 for that fiscal year.

1 (5) A Class II, III, IV, or V district may exceed its  
2 applicable allowable growth rate by the specific dollar amount of  
3 incentive payments or base fiscal year incentive payments to be  
4 received in such school fiscal year pursuant to section 79-1011.

5 (6) For school fiscal year 2005-06, a Class II, III, IV,  
6 V, or VI district may exceed its applicable allowable growth rate  
7 by a specific dollar amount not to exceed seventy-four hundredths  
8 percent of the amount budgeted for employee salaries for such  
9 school fiscal year. For school fiscal year 2006-07, a Class II,  
10 III, IV, V, or VI district may exceed its applicable allowable  
11 growth rate by a specific dollar amount not to exceed fifty-nine  
12 hundredths percent of the amount budgeted for employee salaries for  
13 such school fiscal year."

14 2. On page 1, line 4, after the fourth comma insert  
15 "79-1028,"; and in line 13 after "calculations" insert "and tax  
16 levy provisions".

17 3. On page 40, line 2, strike "19" and insert "20".

18 4. On page 47, line 12, strike "15, 16, and 24" and  
19 insert "16, 17, and 25"; and in line 18 after the third comma  
20 insert "79-1028,".

21 5. Renumber the remaining sections accordingly.

Senator Raikes filed the following amendment to LB 38:  
AM1060

(Amendments to Standing Committee amendments, AM0567)

1 1. Insert the following new section:

2 "Sec. 3. Section 85-1503, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 85-1503. For purposes of sections 85-1501 to 85-1540,  
5 unless the context otherwise requires:

6 (1) Community college shall mean an educational  
7 institution operating and offering programs pursuant to such  
8 sections;

9 (2) Community college area shall mean an area established  
10 by section 85-1504;

11 (3) Board shall mean the Community College Board of  
12 Governors for each community college area;

13 (4) Full-time equivalent student shall mean, in the  
14 aggregate, the equivalent of a registered student who in a

15 twelve-month period is enrolled in (a) thirty semester credit hours  
16 or forty-five quarter credit hours of classroom, laboratory,  
17 clinical, practicum, or independent study course work or  
18 cooperative work experience or (b) nine hundred contact hours of  
19 classroom or laboratory course work for which credit hours are not  
20 offered or awarded. Avocational and recreational community service  
21 programs or courses shall not be included in determining full-time  
22 equivalent students or student enrollment;

23 (5) Contact hour shall mean an educational activity

1 consisting of sixty minutes minus break time and required time to  
2 change classes;

3 (6) Credit hour shall mean the unit used to ascertain the  
4 educational value of course work offered by the institution to  
5 students enrolling for such course work, earned by such students  
6 upon successful completion of such course work, and for which  
7 tuition is charged. A credit hour may be offered and earned in any  
8 of several instructional delivery systems, including, but not  
9 limited to, classroom hours, laboratory hours, clinical hours,  
10 practicum hours, cooperative work experience, and independent  
11 study. A credit hour shall consist of a minimum of: (a) Ten  
12 quarter or fifteen semester classroom contact hours per term of  
13 enrollment; (b) twenty quarter or thirty semester academic transfer  
14 and academic support laboratory hours per term of enrollment; (c)  
15 thirty quarter or forty-five semester vocational laboratory hours  
16 per term of enrollment; (d) thirty quarter or forty-five semester  
17 clinical or practicum contact hours per term of enrollment; or (e)  
18 forty quarter or sixty semester cooperative work experience contact  
19 hours per term of enrollment. An institution may include in a  
20 credit hour more classroom, laboratory, clinical, practicum, or  
21 cooperative work experience hours than the minimum required in this  
22 subdivision. The institution shall publish in its catalog, or  
23 otherwise make known to the student in writing prior to the student  
24 enrolling or paying tuition for any courses, the number of credit  
25 or contact hours offered in each such course. Such published  
26 credit or contact hour offerings shall be used to determine whether  
27 a student is a full-time equivalent student pursuant to subdivision  
1 (4) of this section;

2 (7) Classroom hour shall mean a minimum of fifty minutes  
3 of formalized instruction on campus or off campus in which a  
4 qualified instructor applying any combination of instructional  
5 methods such as lecture, directed discussion, demonstration, or the  
6 presentation of audiovisual materials is responsible for providing  
7 an educational experience to students;

8 (8) Laboratory hour shall mean a minimum of fifty minutes  
9 of educational activity on campus or off campus in which students  
10 conduct experiments, perfect skills, or practice procedures under  
11 the direction of a qualified instructor;

12 (9) Clinical hour shall mean a minimum of fifty minutes  
13 of educational activity on campus or off campus during which the

14 student is assigned practical experience under constant supervision  
15 at a health-related agency, receives individual instruction in the  
16 performance of a particular function, and is observed and critiqued  
17 in the repeat performance of such function. Adjunct professional  
18 personnel, who may or may not be paid by the college, may be used  
19 for the directed supervision of students and for the delivery of  
20 part of the didactic phase of the experience;

21 (10) Practicum hour shall mean a minimum of fifty minutes  
22 of educational activity on campus or off campus during which the  
23 student is assigned practical experiences, receives individual  
24 instruction in the performance of a particular function, and is  
25 observed and critiqued by an instructor in the repeat performance  
26 of such function. Adjunct professional personnel, who may or may  
27 not be paid by the college, may be used for the directed

1 supervision of the students;

2 (11) Cooperative work experience shall mean an internship  
3 or on-the-job training, designed to provide specialized skills and  
4 educational experiences, which is coordinated, supervised,  
5 observed, and evaluated by qualified college staff or faculty and  
6 may be completed on campus or off campus, depending on the nature  
7 of the arrangement;

8 (12) Independent study shall mean an arrangement between  
9 an instructor and student in which the instructor is responsible  
10 for assigning work activity or skill objectives to the student,  
11 personally providing needed instruction, assessing the student's  
12 progress, and assigning a final grade. Credit hours shall be  
13 assigned according to the practice of assigning credits in similar  
14 courses;

15 (13) Full-time equivalent student enrollment total shall  
16 mean the total of full-time equivalent students enrolled in a  
17 community college in any fiscal year;

18 (14) General academic transfer course shall mean a course  
19 offering in a one-year or two-year degree-credit program, at the  
20 associate degree level or below, intended by the offering  
21 institution for transfer into a baccalaureate program. The  
22 completion of the specified courses in a general academic transfer  
23 program may include the award of a formal degree;

24 (15) Applied technology or occupational course shall mean  
25 a course offering in an instructional program, at the associate  
26 degree level or below, intended to prepare individuals for  
27 immediate entry into a specific occupation or career. The primary  
1 intent of the institutions offering an applied technology or  
2 occupational program shall be that such program is for immediate  
3 job entry. The completion of the specified courses in an applied  
4 technology or occupational program may include the award of a  
5 formal degree, diploma, or certificate;

6 (16) Academic support course shall mean a general  
7 education academic course offering which may be necessary to  
8 support an applied technology or occupational program;

9 (17) Class 1 course shall mean an applied technology or  
10 occupational course offering which requires the use of equipment,  
11 facilities, or instructional methods easily adaptable for use in a  
12 general academic transfer program classroom or laboratory;

13 (18) Class 2 course shall mean an applied technology or  
14 occupational course offering which requires the use of specialized  
15 equipment, facilities, or instructional methods not easily  
16 adaptable for use in a general academic transfer program classroom  
17 or laboratory;

18 (19) Reported aid equivalent student shall mean a  
19 full-time equivalent student subject to the following limitations:

20 (a) The number of credit hours which can be counted for  
21 each student per semester or quarter shall be limited to eighteen  
22 credit hours;

23 (b) For students enrolled for more than eighteen credit  
24 hours, credit hours for each course shall be prorated as the  
25 eighteen-credit-hour limit is to the student's total credit hours  
26 for the semester or quarter;

27 (c) The credit-hour limit for a special instructional  
1 term shall be prorated on the same ratio that a fifteen-week term  
2 is to eighteen semester credit hours or a ten-week term is to  
3 eighteen quarter credit hours; and

4 (d) The number of credit and contact hours which shall be  
5 counted by any community college area in which a tribally  
6 controlled community college is located shall include credit and  
7 contact hours awarded by such tribally controlled community college  
8 to students for which such institution received no federal  
9 reimbursement pursuant to the Tribally Controlled Community College  
10 Assistance Act, ~~Public Law 95-471 as reauthorized by Public Law~~  
11 ~~99-428~~ 25 U.S.C. 1801;

12 (20) Reported aid equivalent total shall mean the total  
13 of all reported aid equivalents accumulated in a community college  
14 area in any fiscal year;

15 (21) Reimbursable educational unit shall mean a reported  
16 aid equivalent student multiplied by (a) for a general academic  
17 transfer course or an academic support course, a factor of one, (b)  
18 for a Class 1 course, a factor of one and fifty-hundredths, (c) for  
19 a Class 2 course, a factor of one and eight-tenths for fiscal year  
20 1995-96 and for the three-year averages, a factor of one and  
21 nine-tenths for fiscal year 1996-97 and for the three-year  
22 averages, and a factor of two for fiscal year 1997-98 and each  
23 fiscal year thereafter and for the three-year averages, (d) for a  
24 tribally controlled community college general academic transfer  
25 course or academic support course, a factor of two, (e) for a  
26 tribally controlled community college Class 1 course, a factor of  
27 three, and (f) for a tribally controlled community college Class 2  
1 course, a factor of three and six-tenths for fiscal year 1995-96  
2 and for the three-year averages, a factor of three and eight-tenths  
3 for fiscal year 1996-97 and for the three-year averages, and a

- 4 factor of four for fiscal year 1997-98 and each fiscal year  
 5 thereafter and for the three-year averages;  
 6 (22) Reimbursable educational unit total shall mean the  
 7 total of all reimbursable educational units accumulated in a  
 8 community college area in any fiscal year;  
 9 (23) Special instructional term shall mean any term which  
 10 is less than fifteen weeks for community colleges using semesters  
 11 or ten weeks for community colleges using quarters;  
 12 (24) Statewide reimbursable reported aid equivalent total  
 13 shall mean the total of all reimbursable reported aid equivalents  
 14 accumulated statewide for the community college in any fiscal year;  
 15 (25) Tribally controlled community college shall mean an  
 16 educational institution operating and offering programs pursuant to  
 17 the Tribally Controlled Community College Assistance Act, ~~Public~~  
 18 ~~Law 95-471 as reauthorized by Public Law 99-428~~ 25 U.S.C. 1801; and  
 19 ~~(25)~~ (26) Tribally controlled community college state aid  
 20 amount shall mean the quotient of the amount of state aid to be  
 21 distributed pursuant to sections 85-1536 and 85-1537 for the  
 22 current fiscal year to a community college area in which a tribally  
 23 controlled community college is located divided by the average of  
 24 the reimbursable educational unit totals for such community college  
 25 area for the immediately preceding three fiscal years, with such  
 26 quotient then multiplied by the average reimbursable educational  
 27 units derived pursuant to subdivision (19)(d) of this section for  
 1 the immediately preceding three fiscal years."  
 2 2. On page 5, line 27, strike the second "of" and insert  
 3 "valuation per statewide reimbursable reported aid equivalent total  
 4 as defined in section 85-1503 for".  
 5 3. On page 6, line 2, strike "through 2008-09" and  
 6 insert "and 2006-07".  
 7 4. On page 11, line 8, after "the" insert "statewide";  
 8 in line 12 strike "through 2008-09" and insert "and 2006-07"; and  
 9 strike beginning with "For" in line 14 through the period in line  
 10 18.  
 11 5. On page 13, line 23, after the period insert "For  
 12 purposes of aid distribution beginning with fiscal year 2006-07,  
 13 the revenue generated by the additional levy authorized under  
 14 subdivision (2)(c) of section 85-1517 shall be added to the  
 15 previous year's adjusted base year operating revenue prior to  
 16 applying the two percent plus the percentage growth in full-time  
 17 equivalent students, and remain as part of the adjusted base year  
 18 operating revenue for all fiscal years thereafter.".  
 19 6. On page 15, line 9, strike "section" and insert  
 20 "sections 85-1503 and".  
 21 7. Renumber the remaining sections accordingly.

Senator Friend filed the following amendment to LB 401:  
 AM1038

- 1 1. Insert the following new section:

2 "Section 1. Section 31-735, Reissue Revised Statutes of  
3 Nebraska, is amended to read:  
4 31-735. (1) On the first Tuesday after the second Monday  
5 in September which is at least fifteen months after the judgment of  
6 the district court creating a sanitary and improvement district and  
7 on the first Tuesday after the second Monday in September each two  
8 years thereafter, the board of trustees shall cause a special  
9 election to be held, at which election a board of trustees of five  
10 in number shall be elected. Each member elected to the board of  
11 trustees shall be elected to a term of two years and shall hold  
12 office until such member's successor is elected and qualified. Any  
13 person desiring to file for the office of trustee may file for such  
14 office with the election commissioner, or county clerk in counties  
15 having no election commissioner, of the county in which the greater  
16 proportion in area of the district is located not later than fifty  
17 days before the election. If such person will serve on the board  
18 of trustees as a designated representative of a limited  
19 partnership, general partnership, limited liability company,  
20 public, private, or municipal corporation, estate, or irrevocable  
21 trust which owns real estate in the district, the filing shall  
22 indicate that fact and shall include appropriate documentation  
23 evidencing such fact. No filing fee shall be required. A person  
24 filing for the office of trustee to be elected at the election held  
25 one four years after the first election of trustees and each election  
26 thereafter shall designate whether he or she is a candidate for  
27 election by the resident owners of such district or whether he or  
28 she is a candidate for election by all of the owners of real estate  
29 located in the district. If a person filing for the office of  
30 trustee is a designated representative of a limited partnership,  
31 general partnership, limited liability company, public, private, or  
32 municipal corporation, estate, or irrevocable trust which owns real  
33 estate in the district, the name of such entity shall accompany the  
34 name of the candidate on the ballot in the following form: (Name  
35 of candidate) to represent (name of entity) as a member of the  
36 board. The name of each candidate shall appear on only one ballot.  
37 The name of a person may be written in and voted for as a  
38 candidate for the office of trustee, and such write-in candidate  
39 may be elected to the office of trustee. A write-in candidate for  
40 the office of trustee who will serve as a designated representative  
41 of a limited partnership, general partnership, limited liability  
42 company, public, private, or municipal corporation, estate, or  
43 irrevocable trust which owns real estate in the district shall not  
44 be elected to the office of trustee unless (a) each vote is  
45 accompanied by the name of the entity which the candidate will  
46 represent and (b) within ten days after the date of the election  
47 the candidate provides the county clerk or election commissioner  
48 with appropriate documentation evidencing his or her representation  
49 of the entity. Votes cast which do not carry such accompanying  
50 designation shall not be counted.

27 A trustee shall be an owner of real estate located in the  
1 district or shall be a person designated to serve as a  
2 representative on the board of trustees if the real estate is owned  
3 by a limited partnership, general partnership, limited liability  
4 company, public, private, or municipal corporation, estate, or  
5 irrevocable trust. Notice of the date of the election shall be  
6 mailed by the clerk of the district not later than sixty-five days  
7 prior to the election to each person who is entitled to vote at the  
8 election for trustees whose property ownership or lease giving a  
9 right to vote is of record on the records of the register of deeds  
10 as of a date designated by the election commissioner or county  
11 clerk, which date shall be not more than seventy-five days prior to  
12 the election.

13 (2) For any sanitary and improvement district, persons  
14 whose ownership or right to vote becomes of record or is received  
15 after the date specified pursuant to subsection (1) of this section  
16 may vote when such person establishes their right to vote to the  
17 satisfaction of the election board. At the first election and at  
18 the election held two years after the first election, any person  
19 may cast one vote for each trustee for each acre of unplatted land  
20 or fraction thereof and one vote for each platted lot which he or  
21 she may own in the district. At the election held four years after  
22 the first election of trustees, two members of the board of  
23 trustees shall be elected by the legal property owners resident  
24 within such sanitary and improvement district and three members  
25 shall be elected by all of the owners of real estate located in the  
26 district pursuant to this section. Every resident property owner  
27 may cast one vote for a candidate for each office of trustee to be  
1 filled by election of resident property owners only. Such resident  
2 property owners may also each cast one vote for each acre of  
3 unplatted land or fraction thereof and for each platted lot owned  
4 within the district for a candidate for each office of trustee to  
5 be filled by election of all property owners. For each office of  
6 trustee to be filled by election of all property owners of the  
7 district, every legal property owner not resident within such  
8 sanitary and improvement district may cast one vote for each acre  
9 of unplatted land or fraction thereof and one vote for each platted  
10 lot which he or she owns in the district. At the election held  
11 eight years after the first election of trustees and at each  
12 election thereafter, three members of the board of trustees shall  
13 be elected by the legal property owners resident within such  
14 sanitary and improvement district and two members shall be elected  
15 by all of the owners of real estate located in the district  
16 pursuant to this section, except that if more than fifty percent of  
17 the homes in any sanitary and improvement district are used as a  
18 second, seasonal, or recreational residence, the owners of such  
19 property shall be considered legal property owners resident within  
20 such district for purposes of electing trustees, and at the  
21 election held six years after the first election of trustees and at

22 each election thereafter, three members of the board of trustees  
23 shall be elected by the legal property owners resident within such  
24 sanitary and improvement district and two members shall be elected  
25 by all of the owners of real estate located in the district  
26 pursuant to this section. If there are not any legal property  
27 owners resident within such district or if not less than ninety  
1 percent of the area of the district is owned for other than  
2 residential uses, the five members shall be elected by the legal  
3 property owners of all property within such district as provided in  
4 this section. Any public, private, or municipal corporation owning  
5 any land or lot in the district may vote at such election the same  
6 as an individual. For purposes of voting for trustees, each  
7 condominium apartment under a condominium property regime  
8 established prior to January 1, 1984, under the Condominium  
9 Property Act or established after January 1, 1984, under the  
10 Nebraska Condominium Act shall be deemed to be a platted lot and  
11 the lessee or the owner of the lessee's interest, under any lease  
12 for an initial term of not less than twenty years which requires  
13 the lessee to pay taxes and special assessments levied on the  
14 leased property, shall be deemed to be the owner of the property so  
15 leased and entitled to cast the vote of such property. When  
16 ownership of a platted lot or unplatted land is held jointly by two  
17 or more persons, whether as joint tenants, tenants in common,  
18 limited partners, members of a limited liability company, or any  
19 other form of joint ownership, only one person shall be entitled to  
20 cast the vote of such property. The executor, administrator,  
21 guardian, or trustee of any person or estate interested shall have  
22 the right to vote. No corporation, estate, or irrevocable trust  
23 shall be deemed to be a resident owner for purposes of voting for  
24 trustees. Should two or more persons or officials claim the right  
25 to vote on the same tract, the election board shall determine the  
26 party entitled to vote. Such board shall select one of their  
27 number chairperson and one of their number clerk. In case of a  
1 vacancy on such board, the remaining trustees shall fill the  
2 vacancy on such board until the next election.

3 (3) The election commissioner or county clerk shall hold  
4 any election required by subsection (1) of this section by sealed  
5 mail ballot by notifying the board of trustees on or before July 1  
6 of a given year. The election commissioner or county clerk shall,  
7 at least twenty days prior to the election, mail a ballot and  
8 return envelope to each person who is entitled to vote at the  
9 election and whose property ownership or lease giving a right to  
10 vote is of record with the register of deeds as of the date  
11 designated by the election commissioner or county clerk, which date  
12 shall not be more than seventy-five days prior to the election.  
13 The ballot and return envelope shall include: (a) The names and  
14 addresses of the candidates; (b) room for write-in candidates; and  
15 (c) instructions on how to vote and return the ballot. Such  
16 ballots shall be returned to the election commissioner or county

17 clerk no later than 10 a.m. of the first Thursday following the  
18 election.".

19 2. In AM0369, on page 9, line 12 after "sections" insert  
20 "31-735,".

21 3. Renumber the remaining sections and correct internal  
22 references accordingly.

### **VISITORS**

Visitors to the Chamber were 6 kindergarten through sixth-grade students and sponsors from Home School 4-H group, Juniata and Hastings; and 24 fourth-grade students and teacher from Oakland-Craig Elementary School, Oakland.

### **ADJOURNMENT**

At 4:00 p.m., on a motion by Senator Kruse, the Legislature adjourned until 9:00 a.m., Tuesday, April 5, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**FIFTY-SIXTH DAY - APRIL 5, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FIFTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, April 5, 2005

**PRAYER**

The prayer was offered by Pastor Murry Johnston, Eagle United and Havelock United Methodist Churches, Eagle.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Baker and Dw. Pedersen who were excused; and Senators Brown, Combs, Landis, Price, Schimek, Stuthman, Synowiecki, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-fifth day was approved.

**GENERAL FILE**

**LEGISLATIVE BILL 709.** The Beutler pending amendment, AM1027, found on page 1056 and considered on page 1091, to the Standing Committee amendment, was renewed.

The Beutler amendment was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Senator Beutler renewed his pending amendment, AM1028, found on page 1057, to the Standing Committee amendment.

Senator Beutler withdrew his amendment.

Senator Erdman renewed his pending amendment, AM1049, found on page 1091, to the Standing Committee amendment.

The Erdman amendment was adopted with 28 ayes, 0 nays, 16 present and

not voting, and 5 excused and not voting.

Senator Beutler withdrew his pending amendments, FA142 and FA143, found on page 1092.

Senator Byars renewed his pending amendment, AM1004, found on page 1092, to the Standing Committee amendment.

## **SENATOR CUDABACK PRESIDING**

### **PRESIDENT SHEEHY PRESIDING**

The Byars amendment was adopted with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

Senator Chambers offered the following amendment to the Standing Committee amendment:

AM1071

(Amendments to Standing Committee amendments, AM0772)

- 1 1. Insert the following new section:
- 2 "Sec. 12. Notwithstanding any other provision of law,
- 3 the Director of Health and Human Services and the Tax Commissioner
- 4 shall annually prepare a medical assistance beneficiary employer
- 5 report. For purposes of this section, medical assistance
- 6 beneficiary means a person who receives medical assistance or
- 7 medical benefits under Chapter 68. The report shall provide the
- 8 following information for each business which has signed an
- 9 agreement to receive tax incentives under the Employment and
- 10 Investment Growth Act, the Employment Expansion and Investment
- 11 Incentive Act, including the Enterprise Zone Act, the Invest
- 12 Nebraska Act, or the Rural Economic Opportunities Act:
- 13 (1) The name and address of the business;
- 14 (2) The number of medical assistance beneficiaries who
- 15 are employees of the business;
- 16 (3) The number of medical assistance beneficiaries who
- 17 are spouses or dependents of employees of the business;
- 18 (4) Whether the business offers health benefits to its
- 19 employees; and
- 20 (5) The cost to the state of providing medical assistance
- 21 benefits for its employees and enrolled dependents.
- 22 The report shall not include the names of any individual
- 23 medical assistance beneficiaries and shall be subject to privacy
- 1 standards pursuant to the Health Insurance Portability and
- 2 Accountability Act of 1996. The report shall be submitted annually
- 3 on February 1 to the Health and Human Services Committee of the
- 4 Legislature and the Revenue Committee of the Legislature.".
- 5 2. Renumber the remaining section accordingly.

Senator Chambers withdrew his amendment.

Pending.

**STANDING COMMITTEE REPORT**  
**Nebraska Retirement Systems**

**LEGISLATIVE BILL 691.** Placed on General File as amended.

(Standing Committee amendment, AM1032, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Elaine Stuhr, Chairperson

**AMENDMENT - Print in Journal**

Senator Price filed the following amendment to LB 161:  
AM1054

(Amendments to E & R amendments, AM7072)

- 1 1. Insert the following new section:
- 2 "Section 1. Section 15-201, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 15-201. Cities of the primary class shall be bodies
- 5 corporate and politic and shall have power:
- 6 (1) To sue and be sued;
- 7 (2) To purchase, lease, or otherwise acquire as
- 8 authorized by their home rule charters or state statutes real
- 9 estate or personal property within or without the limits of the
- 10 city for its use for a public purpose;
- 11 (3) To purchase real or personal property upon sale for
- 12 general or special taxes or assessments and to lease, sell, convey,
- 13 or exchange such property so purchased;
- 14 (4) To sell, convey, exchange, or lease real or personal
- 15 property owned by the city in such manner and upon such terms and
- 16 conditions as shall be deemed in the best interests of the city as
- 17 authorized by its home rule charter, except that real estate owned
- 18 by the city may be conveyed without consideration to the State of
- 19 Nebraska for state armory sites or, if acquired for state armory
- 20 sites, shall be conveyed in the manner strictly as provided in
- 21 sections 18-1001 to 18-1006;
- 22 (5) To make contracts and do all acts relative to the
- 23 property and concerns of the city necessary or incident or
- 1 appropriate to the exercise of its corporate powers, including
- 2 powers granted by the Constitution of Nebraska or exercised by or
- 3 pursuant to a home rule charter adopted pursuant thereto and
- 4 including the power to execute such bonds and obligations on the
- 5 part of the city as may be required in judicial proceedings;
- 6 (6) To purchase, construct, and otherwise acquire, own,
- 7 maintain, and operate public service and public utility property
- 8 and facilities within and without the limits of the city and to
- 9 redeem such property from prior encumbrance in order to protect or

10 preserve the interest of the city therein and to exercise such  
11 other and further powers as may be necessary or incident or  
12 appropriate to the powers of such city, including powers granted by  
13 the Constitution of Nebraska or exercised by or pursuant to a home  
14 rule charter adopted pursuant thereto. If the public service or  
15 public utility property or facility is located outside the limits  
16 of the city but within the zoning jurisdiction of another political  
17 subdivision, the city and the other political subdivision may by  
18 interlocal agreement provide or exchange services, including  
19 utility services, relating to the property or facilities; ~~and~~  
20 (7) To receive grants, devises, donations, and bequests  
21 of money or property for public purposes in trust or otherwise; and  
22 (8) To provide for the planting, maintenance, protection,  
23 and removal of shade, ornamental, and other useful trees upon the  
24 streets or boulevards; to assess the cost thereof, when  
25 appropriate, as a special assessment against the property specially  
26 benefited to the extent of benefits received; and to provide by  
27 general ordinance for the manner in which such benefits are to be  
1 measured and the assessments calculated. The city may create  
2 districts by ordinance which shall designate the property within  
3 the district to be benefited.  
4 The powers shall be exercised by the mayor and council of  
5 the city except in cases otherwise specified by law. The mayor and  
6 council shall adopt a corporate seal for the use of any officer,  
7 board, or agent of the city whose duties require an official  
8 seal."  
9 2. On page 11, line 21, after "sections" insert  
10 "15-201,".  
11 3. Renumber the remaining sections accordingly.

## VISITORS

Visitors to the Chamber were Jo Anne Bourquard from the National Conference of State Legislatures; 32 fourth-grade students and teacher from Tecumseh Public School; 33 fourth-grade students and teacher from St. Wenceslaus School, Wahoo; 64 student nurses and faculty members from Creighton University; and 64 fourth-grade students and teachers from Cottonwood Elementary School, Omaha.

## RECESS

At 11:59 a.m., on a motion by Senator Kremer, the Legislature recessed until 1:30 p.m.

## AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

## ROLL CALL

The roll was called and all members were present except Senators Baker and Dw. Pedersen who were excused; and Senators Engel, Preister, and Raikes who were excused until they arrive.

## GENERAL FILE

**LEGISLATIVE BILL 709.** Senator Synowiecki offered the following amendment to the Standing Committee amendment:  
AM1057

(Amendments to Standing Committee amendments, AM0772)

- 1 1. Insert the following new sections:
- 2 "Sec. 12. Sections 12 to 16 of this act shall be known
- 3 and may be referred to as the Employer Public Health Services
- 4 Report Act.
- 5 Sec. 13. For purposes of the Employer Public Health
- 6 Services Report Act, public health program beneficiary means a
- 7 person who receives medical assistance or medical benefits under
- 8 any public program or any person requesting uncompensated care in a
- 9 health care facility as defined in section 71-413.
- 10 Sec. 14. A public health program beneficiary shall
- 11 identify his or her employer or employers at the time of receiving
- 12 public health program services or uncompensated care in a health
- 13 care facility. If the public health program beneficiary is not
- 14 employed and is the spouse or dependent of an employed individual,
- 15 he or she shall identify the employer or employers of his or her
- 16 spouse or legal guardian. All health care facilities shall report
- 17 such information quarterly to the Department of Health and Human
- 18 Services Finance and Support.
- 19 Sec. 15. On or before February 1 each year, the
- 20 Department of Health and Human Services Finance and Support shall
- 21 submit to the Legislature a report identifying all employers who
- 22 employ twenty-five or more public health program beneficiaries. In
- 23 determining whether the twenty-five employee threshold is met, the
- 1 department shall include all public health program beneficiaries
- 2 employed by the employer and its subsidiaries at all locations
- 3 within the state. The report shall include:
- 4 (1) The name and address of the employer;
- 5 (2) The number of public health program beneficiaries who
- 6 are employees of the employer;
- 7 (3) The number of public health program beneficiaries who
- 8 are spouses or dependents of employees of the employer;
- 9 (4) Whether the employer offers health benefits to its
- 10 employees; and
- 11 (5) The cost to the State of Nebraska of providing public
- 12 health program benefits for the employees and enrolled dependents.
- 13 The report shall not include the names of any public
- 14 health access program beneficiaries and shall be subject to privacy

15 standards pursuant to the federal Health Insurance Portability and  
 16 Accountability Act of 1996, as the act existed on January 1, 2005.  
 17 Sec. 16. In addition to filing the report with the  
 18 Legislature, the Department of Health and Human Services Finance  
 19 and Support shall make the report under section 15 of this act  
 20 available to the public through the means it typically uses to  
 21 disseminate information publicly. Any person may request and  
 22 receive a copy of the report."  
 23 2. Renumber the remaining section accordingly.

Senator Synowiecki moved for a call of the house. The motion prevailed with 22 ayes, 1 nay, and 26 not voting.

Senator Synowiecki requested a roll call vote on his amendment.

Voting in the affirmative, 23:

Aguilar	Byars	Cudaback	Kruse	Stuthman
Beutler	Chambers	Cunningham	Landis	Synowiecki
Bourne	Combs	Howard	McDonald	Thompson
Brashear	Conneally	Janssen	Price	
Brown	Cornett	Kopplin	Schimek	

Voting in the negative, 9:

Erdman	Jensen	Redfield	Smith	Wehrbein
Flood	Langemeier	Schrock	Stuhr	

Present and not voting, 12:

Burling	Friend	Johnson	Mines
Fischer	Heidemann	Kremer	Pahls
Foley	Hudkins	Louden	Pederson, D.

Excused and not voting, 5:

Baker	Engel	Pedersen, Dw.	Preister	Raikes
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The Synowiecki amendment lost with 23 ayes, 9 nays, 12 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA144

Amend AM1049

Add: "On page 1, in line 22 strike "control" and insert "mitigate"

The Chambers amendment was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

Senator Byars offered the following amendment to the Standing Committee amendment:

FA145

Amend AM0772

Page 2 Line 2 after the comma, insert "(4) ensure that this study addresses and then meets the needs of the people in this state,"

Strike "(4)" line 2 after "and" insert "(5)"

Senator Byars withdrew his amendment.

The Standing Committee amendment, AM0772, found on page 850 and considered on page 1091, as amended, was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

### **AMENDMENTS - Print in Journal**

Senator Redfield filed the following amendment to LR 12CA:  
AM0998

1 1. On page 2, lines 5 through 7, strike the new matter  
2 and reinstate the stricken matter; in line 7 after "office" insert  
3 "until changed by the Legislature. The Legislature shall establish  
4 the annual salary of the members of the Legislature not to exceed  
5 the annual salary of a county commissioner in the county in which  
6 the state capital is located"; and strike beginning with "change"  
7 in line 18 through line 20 and insert "authorize the Legislature to  
8 establish the annual salary of members of the Legislature not to  
9 exceed the annual salary of a county commissioner in the county in  
10 which the state capital is located.".

Senator Redfield filed the following amendment to LR 12CA:  
AM1016

1 1. On page 2, line 6, strike beginning with "of" through  
2 "dollars" and show the old matter as stricken; in line 7 after  
3 "office" insert "not to exceed twenty percent of the salary  
4 provided by law for the chief justice"; and strike beginning with  
5 "change" in line 18 through line 20 and insert "provide for an  
6 annual salary for members of the Legislature not to exceed twenty  
7 percent of the salary provided by law for the chief justice.".

Senator Redfield filed the following amendment to LR 12CA:  
AM1024

1 1. On page 2, line 6, strike beginning with "of" through  
2 "dollars" and show the old matter as stricken; in line 7 after

3 "office" insert "not to exceed 14.285 percent of the salary  
 4 provided by law for the chief justice"; and strike beginning with  
 5 "change" in line 18 through line 20 and insert "provide for an  
 6 annual salary for members of the Legislature not to exceed 14.285  
 7 percent of the salary provided by law for the chief justice."

### GENERAL FILE

#### LEGISLATIVE BILL 689. Title read. Considered.

The Standing Committee amendment, AM0403, found on page 506, was considered.

Senator Raikes offered the following amendment to the Standing Committee amendment:

AM1084

(Amendments to Standing Committee amendments, AM0403)

- 1 1. Strike amendment 1 and insert the following new
- 2 amendments:
- 3 "1. Strike original 3 and renumber the remaining section
- 4 accordingly.
- 5 2. On page 2, strike lines 10 through 24 and insert:
- 6 '(4) One representative of educational service units;
- 7 (5) One representative of distance education consortia;
- 8 (6) One representative of the State Department of
- 9 Education who has expertise in technology infrastructure;
- 10 (7) One representative of the Public Service Commission;
- 11 (8) Two representatives of the Nebraska Information
- 12 Technology Commission;
- 13 (9) Two representatives of postsecondary education who
- 14 have expertise in technology infrastructure, distance education, or
- 15 dual-enrollment courses;
- 16 (10) One representative of the Governor;
- 17 (11) Two members who are either school district
- 18 superintendents or public school principals; and
- 19 (12) One representative of the Nebraska Educational
- 20 Telecommunications Commission who has expertise in technology
- 21 infrastructure or distance education.
- 22 The members listed in subdivisions (1), (4), (5), (6),
- 23 (7), (9), (11), and (12) of this section shall be appointed by the
- 1 Executive Board of the Legislative Council. The members listed in
- 2 subdivisions (8) and (10) of this section shall be appointed by the
- 3 Governor.'."
- 4 2. On page 2, line 1, before the period insert "; and
- 5 strike beginning with 'for' in line 19 through 'classrooms' in line
- 6 20".
- 7 3. Renumber the remaining amendments accordingly.

**SENATOR JANSSEN PRESIDING**

**SENATOR CUDABACK PRESIDING**

The Raikes amendment was adopted with 30 ayes, 0 nays, 10 present and not voting, and 9 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

Senator Raikes withdrew the Raikes-Stuhr pending amendment, AM1000, found on page 1078.

Advanced to E & R for review with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

**AMENDMENTS - Print in Journal**

Senator Synowiecki filed the following amendment to LB 480:  
AM1056

(Amendments to Standing Committee amendments, AM0802)

- 1 1. On page 2, line 22, after "areas" insert ", except  
2 that smoking may be permitted in a licensed racetrack enclosure".
- 3 2. On page 5, line 4, strike "(a)"; and strike beginning  
4 with "serves" in line 5 through line 8 and insert "(a) holds a  
5 license issued under the Nebraska Liquor Control Act to sell  
6 alcoholic liquor at retail for consumption on the licensed premises  
7 and (b) is a pickle card operator as defined in section 9-316 which  
8 sells pickle cards on the licensed premises, a licensee which  
9 conducts a lottery under the Nebraska County and City Lottery Act  
10 on the licensed premises, or both.".

Senator Aguilar filed the following amendment to LB 117:  
AM0901

(Amendments to Standing Committee amendments, AM0712)

- 1 1. Insert the following new section:
- 2 "Sec. 7. Section 28-707, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 28-707. (1) A person commits child abuse if he or she
- 5 knowingly, intentionally, or negligently causes or permits a minor
- 6 child to be:
- 7 (a) Placed in a situation that endangers his or her life
- 8 or physical or mental health;
- 9 (b) Cruelly confined or cruelly punished;
- 10 (c) Deprived of necessary food, clothing, shelter, or
- 11 care;
- 12 (d) Placed in a situation to be sexually exploited by
- 13 allowing, encouraging, or forcing such minor child to solicit for
- 14 or engage in prostitution, debauchery, public indecency, or obscene
- 15 or pornographic photography, films, or depictions; ~~or~~
- 16 (e) Placed in a situation to be sexually abused as

17 defined in section 28-319 or 28-320.01; or  
 18 (f) Placed in or near the processing, cooking, or  
 19 manufacturing of methamphetamine.

20 (2) The statutory privilege between patient and  
 21 physician, between client and professional counselor, and between  
 22 husband and wife shall not be available for excluding or refusing  
 23 testimony in any prosecution for a violation of this section.

1 (3) Child abuse under subdivision (1)(a), (1)(b), (1)(c),  
 2 (1)(d), or (1)(e) of this section is a Class I misdemeanor if the  
 3 offense is committed negligently.

4 (4) Child abuse under subdivision (1)(a), (1)(b), (1)(c),  
 5 (1)(d), or (1)(e) of this section is a Class IIIA felony if the  
 6 offense is committed knowingly and intentionally and does not  
 7 result in serious bodily injury as defined in section 28-109.

8 (5) Child abuse under subdivision (1)(a), (1)(b), (1)(c),  
 9 (1)(d), or (1)(e) of this section is a Class III felony if the  
 10 offense is committed knowingly and intentionally and results in  
 11 serious bodily injury as defined in ~~such~~ section 28-109.

12 (6) Child abuse under subdivision (1)(f) of this section  
 13 is a Class III felony.

14 (7) Child abuse under subdivision (1)(a), (1)(b), (1)(c),  
 15 (1)(d), (1)(e), or (1)(f) of this section is a Class IB felony if  
 16 the offense is committed knowingly and intentionally and results in  
 17 the death of such child."

18 2. On page 18, line 15, strike "and" and after "28-456"  
 19 insert "28-707".

20 3. Renumber the remaining section accordingly.

Senator Beutler filed the following amendment to LB 689A:

FA146

Strike Section 2 and renumber accordingly

Senator Chambers filed the following amendment to LB 689A:

FA148

On page 2, strike lines 8-12.

## VISITORS

Visitors to the Chamber were 35 fourth-grade students and teacher from Twin River Public School, Genoa, and fourth-grade students and teacher from Monroe Elementary School; and Nicholas, Mark, and Jane Svoboda from Pender.

## ADJOURNMENT

At 3:54 p.m., on a motion by Speaker Brashear, the Legislature adjourned until 9:00 a.m., Wednesday, April 6, 2005.

Patrick J. O'Donnell  
 Clerk of the Legislature

**FIFTY-SEVENTH DAY - APRIL 6, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FIFTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, April 6, 2005

**PRAYER**

The prayer was offered by Pastor Harold Backus, First United Methodist Church, Auburn.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Combs and D. Pederson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-sixth day was approved.

**GENERAL FILE**

**LEGISLATIVE BILL 689A.** Title read. Considered.

Senator Stuhr renewed the Raikes-Stuhr pending amendment, AM1025, found on page 1078.

Senator Chambers offered the following motion:  
Bracket until April 8, 2005.

Senator Chambers withdrew his motion to bracket.

The Raikes-Stuhr amendment was adopted with 28 ayes, 0 nays, 20 present and not voting, and 1 excused and not voting.

Senator Beutler renewed his pending amendment, FA146, found on page 1118.

The Beutler amendment was adopted with 28 ayes, 7 nays, 13 present and not voting, and 1 excused and not voting.

Senator Chambers withdrew his pending amendment, FA148, found on page 1118.

Advanced to E & R for review with 42 ayes, 0 nays, 6 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 38.** Title read. Considered.

The Standing Committee amendment, AM0567, printed separately and referred to on page 612, was considered.

Pending.

### **AMENDMENT - Print in Journal**

Senator Preister filed the following amendment to LB 351:  
AM1078

(Amendments to E & R amendments, AM7079)

- 1 1. Insert the following section:
- 2 "Sec. 3. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

### **VISITORS**

Visitors to the Chamber were 18 fourth-grade students and teacher from St. Bernard School, Omaha; 40 fourth-grade students and teacher from Lost Creek School, Columbus; Senator Engle's niece and nephew, Kami and Craig, and Sarah Hildebrandt from Longmont, Colorado; Ben Rodenborg from Wausa; 53 twelfth-grade students and teacher from Syracuse; 45 fourth-grade students and teachers from Seward; and 59 fourth-, fifth-, and sixth-grade students, teachers, and principal from Harvard.

### **RECESS**

At 11:56 a.m., on a motion by Senator Aguilar, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

### **ROLL CALL**

The roll was called and all members were present except Senators Brown, Kruse, Landis, and Mines who were excused until they arrive.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 588, 664, and 664A.

ER9021

**Enrollment and Review Change to LB 588**

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Beutler amendment, AM0979, on page 6, line 17, "Disclosures" has been struck and "Disclosure" inserted.

2. On page 1, line 2, "50-1205" has been struck and "50-1205.01" inserted and "77-2711," has been inserted before "and".

(Signed) Michael Flood, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 38.** The Standing Committee amendment, AM0567, printed separately and referred to on page 612 and considered in this day's Journal, was renewed.

Senator Raikes withdrew his pending amendment, AM0945, found on page 1024.

Senator Raikes renewed his pending amendment, AM1060, found on page 1100, to the Standing Committee amendment.

**SENATOR JANSSEN PRESIDING****SENATOR CUDABACK PRESIDING**

Senator Burling moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

The Raikes amendment was adopted with 29 ayes, 2 nays, 16 present and not voting, and 2 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 30 ayes, 6 nays, 11 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 30 ayes, 10 nays, 7 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 548.** Title read. Considered.

The Standing Committee amendment, AM0735, found on page 812, was considered.

Pending.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**LEGISLATIVE BILL 82.** Placed on Select File as amended.

E & R amendment to LB 82:

AM7081

- 1 1. On page 1, strike beginning with "60-6,288" in line 1
- 2 through line 6 and insert "60-6,114, 60-6,294, and 60-6,298,
- 3 Reissue Revised Statutes of Nebraska; to change provisions relating
- 4 to operation of emergency vehicles; to except emergency vehicles
- 5 from size and weight restrictions and require a permit for
- 6 operation of emergency vehicles as prescribed; to eliminate a
- 7 permit-carry requirement for recreational vehicles; to harmonize
- 8 provisions; and to repeal the original sections."

**LEGISLATIVE BILL 351.** Placed on Select File as amended.

E & R amendment to LB 351:

AM7079

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 81-1503, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 81-1503. (1)(a) The Environmental Quality Council is
- 6 hereby created. ~~The~~
- 7 (b) Until the effective date of this act, the council
- 8 shall consist of sixteen members to be appointed by the Governor
- 9 with the advice and consent of the Legislature as follows:
- 10 ~~(a)~~ (i) One representative of the food products
- 11 manufacturing industry;
- 12 ~~(b)~~ (ii) One representative of conservation;
- 13 ~~(c)~~ (iii) One representative of the agricultural
- 14 processing industry;
- 15 ~~(d)~~ (iv) One representative of the automotive or
- 16 petroleum industry;
- 17 ~~(e)~~ (v) One representative of the chemical industry;
- 18 ~~(f)~~ (vi) One representative of heavy industry;
- 19 ~~(g)~~ (vii) One representative of the power generating
- 20 industry;
- 21 ~~(h)~~ (viii) One representative of agriculture actively
- 22 engaged in crop production;
- 23 ~~(i)~~ (ix) One representative of labor;
- 24 ~~(j)~~ (x) One professional engineer experienced in control

- 1 of air and water pollution and solid wastes;  
2 ~~(k)~~ (xi) One physician knowledgeable in the health  
3 aspects of air, water, and land pollution;  
4 ~~(h)~~ (xii) One representative from county government;  
5 ~~(m)~~ (xiii) Two representatives from municipal government,  
6 one of whom shall represent cities other than those of the primary  
7 or metropolitan class;  
8 ~~(n)~~ (xiv) One representative of the livestock industry;  
9 and  
10 ~~(o)~~ (xv) One representative of the public at large.  
11 (c) On and after the effective date of this act, the  
12 council shall consist of seventeen members to be appointed by the  
13 Governor with the advice and consent of the Legislature as follows:  
14 (i) One representative of the food products manufacturing  
15 industry;  
16 (ii) One representative of conservation;  
17 (iii) One representative of the agricultural processing  
18 industry;  
19 (iv) One representative of the automotive or petroleum  
20 industry;  
21 (v) One representative of the chemical industry;  
22 (vi) One representative of heavy industry;  
23 (vii) One representative of the power generating  
24 industry;  
25 (viii) One representative of agriculture actively engaged  
26 in crop production;  
27 (ix) One representative of labor;  
1 (x) One professional engineer experienced in control of  
2 air and water pollution and solid wastes;  
3 (xi) One physician knowledgeable in the health aspects of  
4 air, water, and land pollution;  
5 (xii) One representative from county government;  
6 (xiii) Two representatives from municipal government, one  
7 of whom shall represent cities other than those of the primary or  
8 metropolitan class;  
9 (xiv) One representative of the livestock industry;  
10 (xv) One representative of minority populations; and  
11 (xvi) One biologist.  
12 (d)(i) Except as otherwise provided in this subdivision,  
13 members of the council serving on the effective date of this act  
14 shall continue to serve on the council as representatives of the  
15 entity they were appointed to represent until their current terms  
16 of office expire and their successors are appointed and confirmed.  
17 The member representing the public at large shall serve until the  
18 member representing minority populations is appointed.  
19 (ii) The Governor shall appoint members pursuant to  
20 subdivisions (1)(c)(xv) and (1)(c)(xvi) of this section within  
21 ninety days after the effective date of this act.  
22 (2) Members shall serve for terms of four years. All

23 appointments shall be subject to confirmation by the Legislature  
24 when initially made. As the term of an appointee to the council  
25 expires, the succeeding appointee shall be a representative of the  
26 same segment of the public as the previous appointee. In the case  
27 of appointees to vacancies occurring from unexpired terms, each  
1 successor shall serve out the term of his or her predecessor.

2 Members whose terms have expired shall continue to serve until  
3 their successors have been appointed. All members shall be  
4 citizens and residents of the State of Nebraska.

5 (3) Members may be removed by the Governor for  
6 inefficiency, neglect of duty, or misconduct in office but only  
7 after delivering to the member a copy of the charges and affording  
8 him or her an opportunity to be publicly heard in person or by  
9 counsel, in his or her own defense, upon not less than ten days'  
10 notice. Such hearing shall be held before the Governor. When a  
11 member is removed, the Governor shall file, in the office of the  
12 Secretary of State, a complete statement of all charges made  
13 against such member and the findings thereon, together with a  
14 complete record of the proceedings.

15 (4) The council shall elect from its members a  
16 chairperson and a vice-chairperson, who shall hold office at the  
17 pleasure of the council. The vice-chairperson shall serve as  
18 chairperson in case of the absence or disability of the  
19 chairperson. The director shall serve as secretary of the council  
20 and shall keep all records of meetings of and actions taken by the  
21 council. He or she shall be promptly advised as to such actions by  
22 the chairperson.

23 (5) The members of the council, while engaged in the  
24 performance of their official duties, shall receive a per diem of  
25 forty dollars while so serving, including travel time. In  
26 addition, members of the council shall receive reimbursement for  
27 actual and necessary expenses as provided in sections 81-1174 to  
1 81-1177.

2 (6) The council shall hold at least four meetings, once  
3 each calendar quarter, at a time and place fixed by the council and  
4 shall keep a record of its proceedings which shall be open to the  
5 public for inspection. Special meetings may be called by the  
6 chairperson. Such special meetings must be called by him or her  
7 upon receipt of a written request signed by two or more members of  
8 the council. Written notice of the time and place of all meetings  
9 shall be mailed in advance to the office of each member of the  
10 council by the secretary. A majority of the members of the council  
11 shall constitute a quorum.

12 (7) The council shall submit to the Governor a list of  
13 names from which he or she shall appoint the Director of  
14 Environmental Quality who shall be experienced in air, water, and  
15 land pollution control and who may be otherwise an employee of  
16 state government. The director shall be responsible for  
17 administration of the department and all standards, rules, and

18 regulations adopted pursuant to Chapter 81, article 15, the  
19 Integrated Solid Waste Management Act, and the Livestock Waste  
20 Management Act. All such standards, rules, and regulations shall  
21 be adopted by the council after consideration of the  
22 recommendations of the director. All grants to political  
23 subdivisions under the control of the department shall be made by  
24 the director in accordance with priorities established by the  
25 council. A majority of the members of the council shall constitute  
26 a quorum for the transaction of business. The affirmative vote of  
27 a majority of all members of the council shall be necessary for the  
1 adoption of standards, rules, and regulations.

2 (8) Before the director enters upon the duties of his or  
3 her office, he or she shall take and subscribe to the  
4 constitutional oath of office and shall, in addition thereto, swear  
5 and affirm that he or she holds no other public office nor any  
6 position under any political committee or party, that he or she has  
7 not during the two years immediately prior to his or her  
8 appointment received a significant portion of his or her income  
9 directly or indirectly from permitholders or applicants for a  
10 permit under the Environmental Protection Act, and that he or she  
11 will not receive such income during his or her term as director,  
12 except that such requirements regarding income prior to the term of  
13 office shall not apply to employees of any agency of the State of  
14 Nebraska or any political subdivision which may be a permitholder  
15 under the Environmental Protection Act. Such oath and affirmation  
16 shall be filed with the Secretary of State.  
17 Sec. 2. Original section 81-1503, Reissue Revised  
18 Statutes of Nebraska, is repealed.".

(Signed) Michael Flood, Chairperson

## RESOLUTION

**LEGISLATIVE RESOLUTION 74.** Introduced by Howard, 9.

PURPOSE: The purpose of this study is to determine the potential need for social workers to be placed as staff in public schools. The study will include, but not be limited to:

1. Examination of the impact of social and environmental concerns on children's academic achievement;
2. Examination of the manner in which social concerns are currently being met in school settings;
3. Examination of the potential improvements in academic and social outcomes for children and their families;
4. Examination of existing models of social workers in school settings; and
5. Consideration of the fiscal impact associated with placement of social workers in school settings.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

## NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 70:

FA149

Strike Section 7

Senator Burling filed the following amendment to LB 542:

AM1099

(Amendments to Standing Committee amendments, AM0932)

- 1 1. Strike section 2 and insert the following new
- 2 section:
- 3 "Sec. 2. The Tax Policy Review Commission is created.
- 4 The commission shall have fifteen members appointed as follows:
- 5 (1) Eight members of the Legislature, at least six of
- 6 whom will not be term-limited out of the Legislature in January
- 7 2007 by the Executive Board of the Legislative Council;
- 8 (2) One representative of the education community
- 9 appointed by the Governor;
- 10 (3) One representative of production agriculture
- 11 appointed by the Governor;
- 12 (4) One representative of industry and manufacturing
- 13 appointed by the Governor;
- 14 (5) One representative of the financial sector appointed
- 15 by the Governor;
- 16 (6) One representative of the telecommunications sector
- 17 appointed by the Governor; and
- 18 (7) One representative of city government and one
- 19 representative of county government appointed by the Governor."
- 20 2. On page 3, line 13, strike "and"; in line 14 after
- 21 "(7)" insert "Examine previous studies including the Comprehensive
- 22 Tax Study done by Syracuse University from 1986 to 1988, and
- 23 ascertain whether any recommendations of such studies can be
- 1 utilized in the commission's research; and
- 2 (8)"; and in line 15 strike "and" and insert a comma and
- 3 after "Legislature" insert ", and the Governor".

Senator Bourne filed the following amendment to LB 361:

AM1114

(Amendments to E & R amendments, AM7070)

- 1 1. On page 7, line 23, strike "statewide associations"

2 and insert "a statewide association".

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 239. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 33 fourth- and fifth-grade students and teacher from Wallace District 60, Hastings; Senator Schrock's grandchildren, Grace and Brett, from Holdrege; 27 fourth-grade students and teachers from Morton Elementary School, Hastings; and 12 third- and fourth-grade students and teacher from Cheney.

### **ADJOURNMENT**

At 4:10 p.m., on a motion by Speaker Brashear, the Legislature adjourned until 9:00 a.m., Thursday, April 7, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**FIFTY-EIGHTH DAY - APRIL 7, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FIFTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, April 7, 2005

**PRAYER**

The prayer was offered by Senator Fischer.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brown, Cunningham, Engel, Hudkins, Kopplin, Kremer, Loudon, McDonald, Schrock, Smith, and Stuhr who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-seventh day was approved.

**SELECT COMMITTEE REPORTS  
Enrollment and Review**

**LEGISLATIVE RESOLUTION 2CA.** Placed on Select File as amended.  
E & R amendment to LR 2CA:

AM7077

- 1 1. On page 2, line 9, strike "section", show as
- 2 stricken, and insert "subsection".
- 3 2. On page 3, line 10, strike "section" and insert
- 4 "subsection".

**LEGISLATIVE BILL 709.** Placed on Select File as amended.  
E & R amendment to LB 709:

AM7080

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Sections 1 to 8 of this act shall be known
- 4 and may be cited as the Medicaid Reform Act. The Medicaid Reform
- 5 Act terminates on January 1, 2006.
- 6 Sec. 2. The Legislature finds that:

7 (1) The medical assistance program has resulted in  
8 significantly increased expenditures by the State of Nebraska;  
9 (2) In response to such increased expenditures, the  
10 Legislature has taken various actions affecting the availability  
11 and adequacy of medical assistance benefits to Nebraska residents  
12 under the program;  
13 (3) As a result of such increased expenditures, the  
14 medical assistance program has become fiscally unsustainable; and  
15 (4) Fundamental reform of the medical assistance program  
16 is necessary in order to ensure future sustainability of the  
17 program for the benefit of Nebraska residents.

18 Sec. 3. The Legislature finds that:

19 (1) The medicaid program under Title XIX of the Social  
20 Security Act, 42 U.S.C. 1396 et seq., provides essential health  
21 care and long-term care coverage to low-income children, pregnant  
22 women, and families, individuals with disabilities, and senior  
23 citizens serving over one in ten Nebraskans;

24 (2) The medicaid program covers one in four children in  
1 rural areas;

2 (3) The medicaid program is the largest single purchaser  
3 of maternity care and pays for over one-third of the births in the  
4 United States each year;

5 (4) Medicaid is America's single largest purchaser of  
6 nursing home services and other long-term care, covering the  
7 majority of nursing home residents;

8 (5) In Nebraska, the elderly and individuals with  
9 disabilities comprise twenty-three and three-tenths percent of the  
10 medicaid population and represent sixty-seven and two-tenths  
11 percent of medicaid expenditures;

12 (6) In Nebraska, low-income children and their parents  
13 comprise seventy-six and seven-tenths percent of the medicaid  
14 population and represent thirty-two and eight-tenths percent of  
15 medicaid expenditures;

16 (7) Medicaid pays for personal care and other supportive  
17 services necessary to enable individuals with disabilities to  
18 remain in the community, to work, and to maintain independence; and

19 (8) Medicaid is the single largest source of revenue for  
20 the nation's safety net hospitals and health centers and is  
21 critical to the ability of these providers to continue to serve  
22 medicaid enrollees and uninsured Americans.

23 Sec. 4. The purpose of the Medicaid Reform Act is to  
24 provide for reform of the medical assistance program established in  
25 section 68-1018, also known as medicaid, and a substantive  
26 recodification of statutes relating to such program, including, but  
27 not limited to, the enactment of policies to (1) mitigate the  
1 growth of medicaid spending without shifting the cost of providing  
2 medical services to county government or to the providers of care,  
3 (2) ensure future sustainability of the medical assistance program  
4 for Nebraska residents, (3) establish priorities and ensure

5 flexibility in the allocation of medical assistance benefits, and  
6 (4) provide alternatives to medicaid eligibility for Nebraska  
7 residents.

8 Sec. 5. It is the intent of the Legislature to provide  
9 for the development of a medicaid reform plan for the State of  
10 Nebraska and the enactment of necessary and appropriate legislation  
11 to implement such plan.

12 Sec. 6. The Governor and the chairperson of the Health  
13 and Human Services Committee of the Legislature shall each  
14 designate one person who shall be responsible to the Governor and  
15 the committee for the development of a medicaid reform plan for the  
16 State of Nebraska. Such plan shall be developed in consultation  
17 with the Governor, the committee, the Policy Cabinet established in  
18 section 81-3009, and the federal Centers for Medicare and Medicaid  
19 Services. Public input shall be solicited, and at least one public  
20 meeting shall be conducted in each congressional district during  
21 preparation of the plan and prior to submission of the plan.  
22 Monthly reports shall be provided to the Governor and the committee  
23 during preparation of the plan. Such reports shall be reviewed by  
24 the Medicaid Reform Advisory Council established in section 7 of  
25 this act and shall be available to the public. Such plan shall be  
26 submitted to the Governor and the Legislature no later than  
27 December 1, 2005, and shall include recommendations for the  
1 development of medicaid plan amendments and waivers and draft  
2 legislation necessary to support such plan. The committee shall  
3 conduct a public hearing on or before December 15, 2005, to receive  
4 public input regarding the plan.

5 Sec. 7. (1) The Medicaid Reform Advisory Council is  
6 established. The council shall consist of five persons appointed  
7 by the Governor and five persons appointed by the chairperson of  
8 the Health and Human Services Committee of the Legislature. The  
9 council shall consist of, but not be limited to, at least one  
10 representative from each of the following classes of persons:  
11 Health care providers, health care consumers and consumer  
12 advocates, business representatives, insurers, and elected  
13 officials.

14 (2) The council shall meet monthly with persons  
15 designated by the Governor and the chairperson of the Health and  
16 Human Services Committee under section 6 of this act and shall  
17 review monthly reports submitted by such designees under such  
18 section. Minutes of such meetings shall be available to the public  
19 and provided to the Governor and members of the Health and Human  
20 Services Committee of the Legislature.

21 (3) Members of the council shall serve without  
22 compensation for such service but shall be reimbursed for their  
23 actual and necessary expenses as provided in sections 81-1174 to  
24 81-1177.

25 Sec. 8. The chairperson of the Health and Human Services  
26 Committee of the Legislature, in consultation with the committee,

27 may prepare and introduce legislation in the Ninety-ninth  
1 Legislature, Second Session, to implement the medicaid reform plan  
2 developed under section 6 of this act.

3 Sec. 9. Sections 9 to 13 of this act shall be known and  
4 may be cited as the Long-Term Care Partnership Program Development  
5 Act. The Long-Term Care Partnership Program Development Act  
6 terminates on January 1, 2006.

7 Sec. 10. The purpose of the Long-Term Care Partnership  
8 Program Development Act is to provide for the development of a plan  
9 to establish a long-term care partnership program in the State of  
10 Nebraska and the enactment of necessary and appropriate legislation  
11 to implement such plan and such program.

12 Sec. 11. The Legislature finds that:

13 (1) The medical assistance program has resulted in  
14 significantly increased expenditures by the State of Nebraska;

15 (2) Efforts must be made to encourage the purchase of  
16 long-term care insurance and reduce reliance on medicaid to fund  
17 long-term nursing home services and home or community-based  
18 services;

19 (3) Several states have enacted legislation to establish  
20 long-term care partnership programs that contain asset protection  
21 components, including estate asset protection after the death of  
22 the insured;

23 (4) The federal Omnibus Budget Reconciliation Act of 1993  
24 limited state asset protection programs established after May 14,  
25 1993, by requiring recovery from the estates of all persons  
26 receiving services under medicaid;

27 (5) Several states have memorialized Congress to remove  
1 such restrictions on state asset protection programs; and

2 (6) It is prudent to develop a plan for the establishment  
3 of a long-term care partnership program in the State of Nebraska  
4 and the enactment of necessary and appropriate legislation to  
5 implement such plan and such program in the event that current  
6 federal restrictions are removed.

7 Sec. 12. The Nebraska Health and Human Services System  
8 and the Department of Insurance, in consultation with the Health  
9 and Human Services Committee of the Legislature, shall prepare a  
10 plan for the establishment of a long-term care partnership program  
11 in the State of Nebraska. Such plan shall be submitted to the  
12 Governor and the Legislature no later than December 1, 2005. In  
13 preparing such plan, the Nebraska Health and Human Services System  
14 and the Department of Insurance shall analyze partnership programs  
15 established by states prior to the enactment of federal  
16 restrictions on the establishment of such programs under the  
17 federal Omnibus Budget Reconciliation Act of 1993.

18 Sec. 13. The chairperson of the Health and Human  
19 Services Committee of the Legislature, in consultation with members  
20 of the committee, may prepare and introduce legislation in the  
21 Ninety-ninth Legislature, Second Session, to implement the plan

22 developed under section 12 of this act.

23 Sec. 14. Since an emergency exists, this act takes  
24 effect when passed and approved according to law."

25 2. On page 1, strike beginning with "medicaid" in line 1

26 through line 3 and insert "health care; to adopt the Medicaid

27 Reform Act and the Long-Term Care Partnership Program Development  
1 Act; to provide termination dates; and to declare an emergency."

**LEGISLATIVE BILL 689.** Placed on Select File as amended.

E & R amendment to LB 689:

AM7082

1 1. Strike the original sections and all amendments

2 thereto and insert the following new sections:

3 "Section 1. The Distance Education Enhancement Task

4 Force is created. Members of the task force shall be appointed on  
5 or before June 15, 2005, and shall include:

6 (1) The chairperson and one other member of the Education  
7 Committee of the Legislature;

8 (2) The chairperson of the Transportation and  
9 Telecommunications Committee of the Legislature;

10 (3) The chairperson of the Appropriations Committee of  
11 the Legislature;

12 (4) One representative of educational service units;

13 (5) One representative of distance education consortia;

14 (6) One representative of the State Department of

15 Education who has expertise in technology infrastructure;

16 (7) One representative of the Public Service Commission;

17 (8) Two representatives of the Nebraska Information

18 Technology Commission;

19 (9) Two representatives of postsecondary education who

20 have expertise in technology infrastructure, distance education, or  
21 dual-enrollment courses;

22 (10) One representative of the Governor;

23 (11) Two members who are either school district

24 superintendents or public school principals; and

1 (12) One representative of the Nebraska Educational

2 Telecommunications Commission who has expertise in technology  
3 infrastructure or distance education.

4 The members listed in subdivisions (1), (4), (5), (6),

5 (7), (9), (11), and (12) of this section shall be appointed by the

6 Executive Board of the Legislative Council. The members listed in  
7 subdivisions (8) and (10) of this section shall be appointed by the

8 Governor.

9 The chairperson of the Education Committee of the

10 Legislature shall be the chairperson of the task force and shall

11 call the initial and subsequent meetings of the task force.

12 Members of the task force shall be reimbursed for their actual and

13 necessary expenses incurred in carrying out their duties as members

14 of the task force as provided in sections 81-1174 to 81-1177. The

15 Education Committee of the Legislature, the Transportation and  
16 Telecommunications Committee of the Legislature, the Legislative  
17 Fiscal Analyst, the State Department of Education, and the Nebraska  
18 Information Technology Commission shall provide research and  
19 administrative support for the task force. For budgetary purposes  
20 only, the task force shall be within the Legislative Council.

21 The task force shall terminate on December 31, 2005.

22 Sec. 2. The Distance Education Enhancement Task Force  
23 shall develop an improvement plan to upgrade and coordinate  
24 distance education in Nebraska. The task force shall make  
25 recommendations for policies and potential legislation to the Clerk  
26 of the Legislature, the Education Committee of the Legislature, the  
27 Transportation and Telecommunications Committee of the Legislature,  
1 and the Appropriations Committee of the Legislature on or before  
2 December 31, 2005. The plan shall include, but not be limited to:

3 (1) The development of a high capacity, scalable  
4 telecommunications infrastructure;

5 (2) The development of an Internet protocol-based network  
6 to interconnect all existing and future distance education and  
7 videoconferencing facilities;

8 (3) Upgrades of current telecommunications equipment;

9 (4) Training and support programs for educators in the  
10 development and use of distance learning;

11 (5) The transfer of distance education coordination  
12 responsibilities from distance education consortia to educational  
13 service units on or before July 1, 2007;

14 (6) Statewide coordination for distance education  
15 offerings;

16 (7) Potential funding sources;

17 (8) The establishment of an equitable and affordable  
18 financing system for both equipment and usage;

19 (9) The establishment of a system that allows school  
20 districts to purchase quality distance education offerings from  
21 other school districts either directly or with educational service  
22 units acting as fiscal agents; and

23 (10) Statewide provision of other technology-based  
24 services.

25 The task force may hold one or more public hearings to  
26 obtain public input.

27 Sec. 3. Since an emergency exists, this act takes effect  
1 when passed and approved according to law."

2 2. On page 1, strike beginning with the first "to" in  
3 line 3 through the semicolon in line 4.

**LEGISLATIVE BILL 689A.** Placed on Select File as amended.

E & R amendment to LB 689A:

AM7083

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:

3 "Section 1. There is hereby appropriated \$10,000 from  
 4 the General Fund for FY2005-06 to the Legislative Council, for  
 5 Program 122, to aid in carrying out the provisions of Legislative  
 6 Bill 689, Ninety-ninth Legislature, First Session, 2005.  
 7 No expenditures for permanent and temporary salaries and  
 8 per diems for state employees shall be made from funds appropriated  
 9 in this section.  
 10 Sec. 2. Since an emergency exists, this act takes effect  
 11 when passed and approved according to law."

(Signed) Michael Flood, Chairperson

### REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of April 6, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
 Clerk of the Legislature

Brown, Dennis  
 Equipment Leasing Association (Withdrawn 04/05/2005)

Milder, Ally  
 Susan A. Buffett Foundation

### GENERAL FILE

**LEGISLATIVE BILL 548.** The Standing Committee amendment, AM0735, found on page 812 and considered on page 1122, was renewed.

Senator Jensen offered the following amendment to the Standing Committee amendment:  
 AM1121

(Amendments to Standing Committee amendments, AM0735)

- 1 1. On page 1, strike beginning with "in" in line 4
- 2 through the semicolon in line 5.

The Jensen amendment was adopted with 30 ayes, 0 nays, 7 present and not voting, and 12 excused and not voting.

Pending.

### ANNOUNCEMENTS

The Chair announced that April 5 was Senator Foley's birthday.

The Chair announced today is Senator Erdman's birthday.

**GENERAL FILE**

**LEGISLATIVE BILL 548.** Senator Chambers offered the following amendment to the Standing Committee amendment:

FA150

Amend AM0735

"No recipient of funds shall discriminate against any person on the basis of sexual orientation."

Senator Chambers moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

The Chambers amendment was adopted with 25 ayes, 9 nays, 12 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

The Standing Committee amendment, as amended, was adopted with 30 ayes, 5 nays, 10 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 31 ayes, 5 nays, 9 present and not voting, and 4 excused and not voting.

**MESSAGE FROM THE GOVERNOR**

April 7, 2005

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 39, 121, 131, 144, 205, 217, 234, 242, 268, 299e, 335, 352, 439e, 485, 492, 516, 570, 668, 675, 675A, 684, and 684Ae were received in my office on April 1, 2005.

These bills were signed by me and delivered to the Secretary of State on April 7, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

**GENERAL FILE**

**LEGISLATIVE BILL 480.** Title read. Considered.

The Standing Committee amendment, AM0802, found on page 861, was considered.

Senator Thompson renewed her pending amendment, AM0948, found on page 1078, to the Standing Committee amendment.

**SENATOR SCHIMEK PRESIDING**

**SENATOR CUDABACK PRESIDING**

**SPEAKER BRASHEAR PRESIDING**

Pending.

**RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR 66 was adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 66.

**GENERAL FILE**

**LEGISLATIVE BILL 480.** The Thompson pending amendment, AM0948, found on page 1078 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

**SENATOR CUDABACK PRESIDING**

Pending.

**AMENDMENTS - Print in Journal**

Senator Thompson filed the following amendment to LB 480:

FA151

Strike Section 10

Senator Loudon filed the following amendment to LB 454:

AM1119

(Amendments to Standing Committee amendments, AM0810)

- 1 1. On page 15, line 1, strike "I", show as stricken, and
- 2 insert "IV".

Senator Erdman filed the following amendment to LB 480:

FA152

Amend AM1052

in line 2 page 5 after Fund insert: "; except that the State Treasurer shall not place such amount in such fund if a city of the metropolitan class has established an ordinance described in subdivision (2) of Section 71-5702.

Senator Jensen filed the following amendment to LB 382:

(Amendment, AM1042, is printed separately and available in the Bill Room, Room 1104.)

Senator Jensen filed the following amendment to LB 551:

AM1113

(Amendments to Standing Committee amendments, AM0695)

- 1 1. Insert the following new sections:
- 2 "Sec. 8. Section 71-922, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 71-922. (1) Mental health board proceedings shall be
- 5 deemed to have commenced upon the earlier of (a) the filing of a
- 6 petition under section 71-921 or (b) notification by the county
- 7 attorney to the law enforcement officer who took the subject into
- 8 emergency protective custody under section 71-920 or the
- 9 administrator of the treatment center of medical facility having
- 10 charge of the subject of his or her intention to file such
- 11 petition. The county attorney shall file such petition as soon as
- 12 reasonably practicable after such notification.
- 13 (2) A petition filed by the county attorney under section
- 14 71-921 may contain a request for the emergency protective custody
- 15 and evaluation of the subject prior to commencement of a mental
- 16 health board hearing pursuant to such petition with respect to the
- 17 subject. Upon receipt of such request and upon a finding of
- 18 probable cause to believe that the subject is mentally ill and
- 19 dangerous as alleged in the petition, the court or chairperson of
- 20 the mental health board may issue a warrant directing the sheriff
- 21 to take custody of the subject. If the subject is already in
- 22 emergency protective custody under a certificate filed under
- 23 section 71-919, a copy of such certificate shall be filed with the
- 1 petition. The subject in such custody shall be held in the nearest
- 2 appropriate and available medical facility and shall not be placed
- 3 in a jail. Each county shall make arrangements with appropriate
- 4 medical facilities inside or outside the county for such purpose
- 5 and shall pay the cost of the emergency protective custody of
- 6 persons from such county in such facilities.
- 7 (2) (3) The petition and all subsequent pleadings and
- 8 filings in the case shall be entitled In the Interest of .....,
- 9 Alleged to be Mentally Ill and Dangerous. The county attorney may
- 10 dismiss the petition at any time prior to the commencement of the
- 11 hearing of the mental health board under section 71-924, and upon
- 12 such motion by the county attorney, the mental health board shall
- 13 dismiss the petition.
- 14 Sec. 9. This act becomes operative on July 1, 2005."

15 2. Renumber the remaining sections accordingly.

Senator Jensen filed the following amendment to LB 551:

AM1122

(Amendments to Standing Committee amendments, AM0695)

- 1 1. Insert the following new sections:
- 2 "Section 1. Section 71-1,356, Revised Statutes
- 3 Supplement, 2004, is amended to read:
- 4 71-1,356. (1)(a) The practical training supervisor for
- 5 supervised practical training required under section 71-1,355 shall
- 6 hold one of the following credentials:
- 7 (i) Licensure as an alcohol and drug counselor;
- 8 (ii) A reciprocity level alcohol and drug counselor
- 9 credential issued by a member jurisdiction of the International
- 10 Certification and Reciprocity Consortium, Alcohol and Other Drug
- 11 Abuse, Inc. or its successor; or
- 12 (iii) Licensure as a physician or psychologist under the
- 13 Uniform Licensing Law, or an equivalent credential from another
- 14 jurisdiction, and sufficient training as determined by the Board of
- 15 Medicine and Surgery for physicians or the Board of Psychologists
- 16 for psychologists, in consultation with the Board of Alcohol and
- 17 Drug Counseling, and adopted and promulgated by the department in
- 18 rules and regulations. ~~specialized training in alcohol and drug~~
- 19 ~~counseling and the twelve core functions sufficient to protect the~~
- 20 ~~public.~~
- 21 (b) The practical training supervisor shall not be a
- 22 family member.
- 23 (c) The credential requirement of this subsection applies
- 1 to the work setting supervisor and not to a practicum coordinator
- 2 or instructor of a postsecondary educational institution.
- 3 (2) The practical training supervisor shall assume
- 4 responsibility for the performance of the individual in training
- 5 and shall be onsite at the work setting when core function
- 6 activities are performed by the individual in training. A minimum
- 7 of one hour of evaluative face-to-face supervision for each ten
- 8 hours of core function performance shall be documented.
- 9 Supervisory methods shall include, as a minimum, individual
- 10 supervisory sessions, formal case staffings, and conjoint,
- 11 cotherapy sessions. Supervision shall be directed towards teaching
- 12 the knowledge and skills of professional alcohol and drug
- 13 counseling.
- 14 Sec. 2. Section 71-1,358, Revised Statutes Supplement,
- 15 2004, is amended to read:
- 16 71-1,358. (1)(a) The clinical supervisor for supervised
- 17 clinical work experience under section 71-1,357 shall hold one of
- 18 the following credentials:
- 19 (i) Licensure as an alcohol and drug counselor;
- 20 (ii) A reciprocity level alcohol and drug counselor
- 21 credential issued by a member jurisdiction of the International

22 Certification and Reciprocity Consortium, Alcohol and Other Drug  
 23 Abuse, Inc. or its successor;  
 24 (iii) The highest level alcohol and drug counselor  
 25 credential issued by a jurisdiction that is not a member of the  
 26 International Certification and Reciprocity Consortium, Alcohol and  
 27 Other Drug Abuse, Inc. or its successor if the credential is based  
 1 on education, experience, and examination that is substantially  
 2 similar to the license issued in this state as determined by the  
 3 board; or  
 4 (iv) Licensure as a physician or psychologist under the  
 5 Uniform Licensing Law, or an equivalent credential from another  
 6 jurisdiction, and sufficient training as determined by the Board of  
 7 Medicine and Surgery for physicians or the Board of Psychologists  
 8 for psychologists, in consultation with the Board of Alcohol and  
 9 Drug Counseling, and adopted and promulgated by the department in  
 10 rules and regulations. specialized training in alcohol and drug  
 11 counseling and the twelve core functions sufficient to protect the  
 12 public.  
 13 (b) The clinical supervisor shall be formally affiliated  
 14 with the program or agency in which the work experience is gained.  
 15 (c) The clinical supervisor shall not be a family member.  
 16 (2) There shall be one hour of evaluative face-to-face  
 17 clinical supervision for each forty hours of paid alcohol and drug  
 18 counseling work experience. The format for supervision shall be  
 19 either one-on-one or small group. Methods of supervision may  
 20 include case review and discussion or direct observation of a  
 21 counselor's clinical work."  
 22 3. Renumber the remaining sections and correct the  
 23 repealer accordingly.

Senator Loudon filed the following amendment to LB 673:  
 AM1007

(Amendments to Standing Committee amendments, AM0867)

- 1 1. On page 12, strike beginning with "It" in line 8
- 2 through line 13.

Senator Jensen filed the following amendment to LB 70:  
 AM1106

- 1 1. Strike original sections 6 and 7.
- 2 2. On page 12, line 6, strike "and" and show as
- 3 stricken; strike beginning with "except" in line 8 through
- 4 "presents" in line 10, show the old matter as stricken, and insert
- 5 "and presented"; in line 11 strike "(a)" and insert "(1)"; in line
- 6 13 strike "(b)" and insert "(2)"; and strike line 15, show the old
- 7 matter as stricken, and insert "2007. An examiner shall waive the
- 8 required examination, including the actual operation of a
- 9 motorcycle and the motorcycle safety course, if".
- 10 3. On page 17, line 19, strike "8 to 21" and insert "6
- 11 to 19".

- 12 4. On page 18, line 25; and page 19, line 5, strike "9"  
13 and insert "7".  
14 5. On page 20, lines 2 and 20, strike "11" and insert  
15 "9".  
16 6. On page 22, line 4, strike "16 to 19" and insert "14  
17 to 17".  
18 7. On page 23, lines 2 and 16; and page 24, lines 16 and  
19 23, strike "15" and insert "13".  
20 8. On page 25, line 15, strike "21, 23, and 25" and  
21 insert "19, 21, and 23"; and in line 18 strike "60-4,182,  
22 60-6,279,".  
23 9. Renumber the remaining sections accordingly.

### VISITORS

Visitors to the Chamber were 25 fourth-grade students and teachers from St. Mary's School, David City; 8 delegates and their escort from South Asia; Olivia Woita from Omaha; 80 fourth-grade students and teachers from Wheeler Elementary School, Omaha; 43 fifth-grade students and teacher from Milliken Park Elementary School, Fremont; 19 fourth-grade students and teacher from Nemaha Valley Schools, Cook; 31 fourth-grade students and teachers from Cedar Elementary School, Beatrice; 47 fourth-grade students and teacher from Arlington; county officials from across the state; and 160 social work students from UNK, UNO, Creighton, Dana, and Chadron.

### ADJOURNMENT

At 12:03 p.m., on a motion by Senator Erdman, the Legislature adjourned until 10:00 a.m., Monday, April 11, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**FIFTY-NINTH DAY - APRIL 11, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****FIFTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, April 11, 2005

**PRAYER**

The prayer was offered by Senator Kruse.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Combs and Erdman who were excused; and Senators Aguilar, Brown, Landis, McDonald, Mines, Dw. Pedersen, D. Pederson, and Schrock who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-eighth day was approved.

**SELECT COMMITTEE REPORTS  
Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 111, 111A, and 274.

ER9022

Enrollment and Review Change to LB 111

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 5, line 15, "persons" has been struck and "person" inserted.

ER9023

Enrollment and Review Change to LB 274

The following changes, required to be reported for publication in the

Journal, have been made:

1. Due to the passage of LB 76:

a. In the Standing Committee amendments, AM0244:

i. Section 235 has been stricken and the following new section inserted:

"Sec. 235. Section 60-465, Reissue Revised Statutes of Nebraska, as amended by section 4, Legislative Bill 76, Ninety-ninth Legislature, First Session, 2005, is amended to read:

60-465. (1) Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross combination weight rating of eleven thousand seven hundred ninety-four kilograms or more (twenty-six thousand one pounds or more) inclusive of a towed unit with a gross vehicle weight rating of more than four thousand five hundred thirty-six kilograms (ten thousand pounds);

(b) Has a gross vehicle weight rating of eleven thousand seven hundred ninety-four or more kilograms (twenty-six thousand one pounds or more);

(c) Is designed to transport sixteen or more passengers, including the driver; or

(d) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the federal Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the federal Hazardous Material Regulations, 49 C.F.R. part 172, subpart F.

(2) Commercial motor vehicle does not include (a) a farm truck as defined in section ~~60-304~~ 25 of this act other than a combination of truck-tractors and semitrailers when such farm truck is operated within one hundred fifty miles of the registered owner's farm or ranch, (b) any ~~self-propelled mobile home~~ recreational vehicle as defined in section 47 of this act or motor vehicle ~~drawing~~ towing a cabin trailer as ~~such terms are~~ defined in section ~~60-304~~ sections 14 and 39 of this act, (c) any emergency vehicle operated by a public or volunteer fire department, or (d) any motor vehicle owned or operated by the United States Department of Defense or Nebraska National Guard when such motor vehicle is driven by uniformed, military operators performing duty in the active service of the United States or this state."; and

ii. On page 267, line 3, "60-465," has been struck; in line 10 "and" has been struck; and in line 13 "and section 60-465, Reissue Revised Statutes of Nebraska, as amended by section 4, Legislative Bill 76, Ninety-ninth Legislature, First Session, 2005," has been inserted after the second comma;

b. In the E & R amendments, AM7068, on page 2, line 19, "and" has been struck; and

c. On page 1, line 3, "60-465," has been struck; and in line 12 ", and section 60-465, Reissue Revised Statutes of Nebraska, as amended by section 4, Legislative Bill 76, Ninety-ninth Legislature, First Session, 2005" has been inserted after "2004".

**LEGISLATIVE BILL 38.** Placed on Select File as amended.

(E & R amendment, AM7084, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Michael Flood, Chairperson

### COMMUNICATION

Received petition from the Douglas County Board of Commissioners adopted on April 5, 2005.

### SELECT FILE

**LEGISLATIVE BILL 276.** E & R amendment, AM7078, found on page 1088, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 389.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 389A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 193.** E & R amendment, AM7076, found on page 1088, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 82.** E & R amendment, AM7081, found on page 1122, was adopted.

Senator Baker withdrew his pending amendment, AM0902, found on page 977.

Senator Beutler withdrew his pending amendment, AM0976, found on page 1028.

Senators Beutler and Baker offered the following amendment:  
AM1139

(Amendments to Standing Committee amendments, AM0666)

- 1 1. Insert the following new sections:
- 2 "Section 1. Section 52-604, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 52-604. From the proceeds of such sale the claimant
- 5 shall satisfy his or her lien, including the reasonable charges of
- 6 notice, advertisement, and sale. The balance, if any, of such
- 7 proceeds shall be delivered to the county treasurer of the county
- 8 in which the sale was made. The treasurer of the county in which
- 9 the property was sold shall issue his or her receipt therefor. The
- 10 county treasurer shall make proper entry in the books of his or her
- 11 office of all money so paid over to him or her, and shall hold the
- 12 money for a period of five years, and immediately thereafter shall
- 13 pay the same into the school fund of the proper county, to be

14 appropriated for the support of the schools, unless the owner of  
15 the property sold, ~~or his~~ or her legal representatives, or any lien  
16 or security interest holder of record, shall within such period of  
17 five years after such money shall have been deposited with the  
18 treasurer, furnish satisfactory evidence of the ownership of such  
19 property or satisfactory evidence of the lien or security interest,  
20 in which event he, she, or they shall be entitled to receive from  
21 such treasurer the amount so deposited with him or her.

22 Sec. 4. Section 60-6,297, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

1 60-6,297. The provisions of subdivision (1)(b) of  
2 section 60-6,290 and subsections (2) and (3) of section 60-6,294  
3 shall not apply when a disabled combination of vehicles is towed if  
4 the combination of vehicles, together with the wrecker or tow  
5 truck, does not exceed one hundred ~~thirty~~ fifty feet, inclusive of  
6 front and rear bumpers including load. Such exception shall apply  
7 only if the disabled combination of vehicles is being towed  
8 directly to the nearest place of secure safekeeping. The towing  
9 vehicle shall be connected with the air brakes and brake lights of  
10 the towed vehicle. For purposes of this section, place of secure  
11 safekeeping means a place off the traveled portion of the highway  
12 that can accommodate the parking of such vehicles in order for the  
13 vehicles to be (1) repaired or (2) dismantled and operated in  
14 compliance with subdivision (1)(b) of section 60-6,290 and  
15 subsections (2) and (3) of section 60-6,294.

16 Sec. 6. Section 60-2404, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 60-2404. A motor vehicle towed away under sections  
19 60-2401 to 60-2411, which is not claimed by the owner within ~~one~~  
20 ~~hundred eighty~~ ninety days after towing, is subject to ~~liens~~ lien  
21 and disposition under Chapter 52, article 6, by the person who  
22 towed the vehicle, ~~under Chapter 52, article 6~~.

23 Sec. 7. Section 60-2410, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 60-2410. (1) The owner or other person lawfully entitled  
26 to the possession of any vehicle towed or stored shall be charged  
27 with the reasonable cost of towing and storage fees. Any such  
1 towing or storage fee shall be a lien upon the vehicle under  
2 Chapter 52, article 6, and, except as provided in subsection (3) of  
3 this section, shall be prior to all other claims. Any person  
4 towing or storing a vehicle ~~shall be entitled to~~ may retain  
5 possession of such vehicle until such charges are paid or, after  
6 ninety days, may dispose of such vehicle to satisfy the lien. The  
7 lien provided for in this section shall not apply to the contents  
8 of any vehicle.

9 (2) The person towing the motor vehicle shall, within  
10 thirty days after towing, notify any lienholder appearing on the  
11 certificate of title of the motor vehicle and the owner of the  
12 motor vehicle of the towing of the motor vehicle. The notice shall

- 13 be sent by certified mail, return receipt requested, to the  
 14 last-known address of the lienholder and owner of the motor  
 15 vehicle. The notice shall contain:  
 16 (a) The make, model, color, year, and vehicle  
 17 identification number of the motor vehicle;  
 18 (b) The name, address, and telephone number of the person  
 19 who towed the motor vehicle;  
 20 (c) The date of towing;  
 21 (d) The daily storage fee and the storage fee accrued as  
 22 of the date of the notification; and  
 23 (e) A statement that the motor vehicle is subject to lien  
 24 and disposition by sale or other manner ninety days after the date  
 25 of towing under Chapter 52, article 6.  
 26 (3) Failure to provide notice as prescribed in subsection  
 27 (2) of this section shall result in the lien of the person who  
 1 towed the motor vehicle being subordinate to the lien of the  
 2 lienholder appearing on the certificate of title and render void  
 3 any disposition of the motor vehicle by the person who towed the  
 4 motor vehicle."  
 5 2. On page 13, line 14, after "sections" insert  
 6 "52-604," and strike "and" and insert "60-6,297,"; and in line 15  
 7 after "60-6,298," insert "60-2404, and 60-2410,".  
 8 3. Renumber the remaining sections accordingly.

The Beutler-Baker amendment was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 351.** E & R amendment, AM7079, found on page 1122, was adopted.

Senator Preister renewed his pending amendment, AM1078, found on page 1120.

The Preister amendment was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 382.** E & R amendment, AM7062, found on page 913, was adopted.

Senator Byars renewed his pending amendment, AM0951, found on page 1032.

The Byars amendment was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

Pending.

### ANNOUNCEMENT

The Chair announced today is Senator Bourne's birthday.

### SELECT FILE

**LEGISLATIVE BILL 382.** Senator Jensen renewed his pending amendment, AM1042, printed separately and referred to on page 1138.

Senator Jensen withdrew his amendment.

Senator Stuhr offered the following amendment:

AM0816

- 1 1. Insert the following new sections:
- 2 "Sec. 9. Section 71-374, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 71-374. (1) ~~Except as provided in subsection (2) of this~~
- 5 ~~section~~ Until October 1, 2005, the board shall be composed of
- 6 eleven members. On and after October 1, 2005, the board shall be
- 7 composed of twelve members. The board shall include , including
- 8 two school owners, one esthetician, one licensed instructor, two
- 9 laypersons, one cosmetologist who is a salon owner and who is not a
- 10 school owner, one electrologist who is not a licensed
- 11 cosmetologist, one nail technician, and two cosmetologists who are
- 12 not school owners, and one practitioner of body art as provided in
- 13 this section. The professional members shall be licensed in
- 14 Nebraska and maintain such license as well as their establishment
- 15 licenses in good standing. No members of the board who are school
- 16 owners, salon owners, electrologists, nail technicians,
- 17 instructors, or cosmetologists, or practitioners of body art may be
- 18 affiliated with the same establishment.
- 19 (2) ~~By October 1, 1999, the State Board of Health shall~~
- 20 ~~appoint one nail technician for a five-year term. The initial nail~~
- 21 ~~technician member must be eligible for licensure and obtain a nail~~
- 22 ~~technician license by January 1, 2000, to remain eligible to serve~~
- 23 ~~on the board.~~
- 24 (3) ~~By October 1, 2002~~ 2005, the State Board of Health
- 1 shall appoint one ~~esthetician~~ practitioner of body art for a
- 2 five-year term.
- 3 (4) ~~(3)~~ Members of the board shall be appointed by the
- 4 State Board of Health from among nominees submitted by professional
- 5 associations and other interested parties. A person may nominate
- 6 himself or herself.
- 7 ~~(5)~~ (4) The State Board of Health may remove a member of
- 8 the board for physical or mental incapacity to carry out the duties
- 9 of a board member, for continued neglect of duty, for incompetency,
- 10 for acting beyond the individual member's scope of authority, for

malfeasance in office, for any cause for which a professional license in the profession involved may be suspended or revoked under the Nebraska Cosmetology Act, or for a lack of licensure in the profession involved.

~~(6)~~ (5) Vacancies on the board shall be filled in the same manner as original appointments for the remainder of the unexpired term only.

~~(7)~~ (6) Members of the board, ~~other than the initial members unless otherwise specifically provided~~, shall serve for five-year terms, and no member shall serve for more than two consecutive terms excluding any partial term for which he or she may have been appointed.

Sec. 10. Section 71-375, Reissue Revised Statutes of Nebraska, is amended to read:

71-375. (1) Until October 1, ~~1999~~ 2005, any ~~five~~ six members of the board shall constitute a quorum for routine business, except that for matters requiring professional judgment of competency or standards of professional conduct, a quorum shall consist of any ~~four~~ five professional members.

(2) On and after October 1, ~~1999~~ 2005, any ~~six~~ seven members of the board shall constitute a quorum for routine business, except that for matters requiring professional judgment of competency or standards of professional conduct, a quorum shall consist of any ~~five~~ six professional members.

(3) The board shall meet at least twice a year and more often at the call of the chairperson or (a) until October 1, ~~1999~~ 2005, any ~~four~~ five members or (b) on and after October 1, ~~1999~~ 2005, any ~~five~~ six members.

(4) The board shall select officers from among its members, including a chairperson, vice-chairperson, and secretary.

(5) Members of the board shall be paid for their expenses as provided in sections 81-1174 to 81-1177 and shall in addition receive a per diem of fifty dollars.

Sec. 11. Section 71-3,177, Revised Statutes Supplement, 2004, is amended to read:

71-3,177. Each of the following may be considered an act of unprofessional conduct when committed by a person licensed or registered under the Nebraska Cosmetology Act:

(1) Performing any of the practices regulated under the Nebraska Cosmetology Act for which an individual is not licensed or registered;

(2) Obstructing, interfering, or failing to cooperate with an inspection or investigation conducted by an authorized representative of the department when acting in accordance with the Nebraska Cosmetology Act;

(3) Failing to report to the department a suspected violation of the Nebraska Cosmetology Act;

(4) Aiding and abetting an individual to practice any of the practices regulated under the Nebraska Cosmetology Act for

- 6 which he or she is not licensed or registered;
- 7 (5) Engaging in any of the practices regulated under the  
8 Nebraska Cosmetology Act for compensation in an unauthorized  
9 location;
- 10 (6) Engaging in the practice of any healing art or  
11 profession for which a license is required without holding such a  
12 license;
- 13 (7) Enrolling a student or an apprentice without  
14 submitting a complete student entrance notification to the  
15 department;
- 16 (8) Knowingly falsifying any student or apprentice record  
17 or report;
- 18 (9) Initiating or continuing home services to a client  
19 who does not meet the criteria established in the Nebraska  
20 Cosmetology Act;
- 21 (10) Knowingly issuing a certificate of completion or  
22 diploma to a student or an apprentice who has not completed all  
23 requirements for the issuance of such document;
- 24 (11) Failing, by a school of cosmetology, a nail  
25 technology school, a school of esthetics, or an apprentice salon,  
26 to follow its published rules;
- 27 (12) Violating, by a school of cosmetology, nail  
1 technology school, or school of esthetics, any federal or state law  
2 involving the operation of a vocational school or violating any  
3 federal or state law involving participation in any federal or  
4 state loan or grant program;
- 5 (13) Knowingly permitting any person under supervision to  
6 violate any law, rule, or regulation or knowingly permitting any  
7 establishment or facility under supervision to operate in violation  
8 of any law, rule, or regulation;
- 9 (14) Receiving two unsatisfactory inspection reports  
10 within any sixty-day period;
- 11 (15) Engaging in any of the practices regulated under the  
12 Nebraska Cosmetology Act while afflicted with any active case of a  
13 serious contagious disease, infection, or infestation, as  
14 determined by the department, or in any other circumstances when  
15 such practice might be harmful to the health or safety of clients;
- 16 (16) Violating any rule or regulation relating to the  
17 practice of body art; and
- 18 (17) ~~Performing body art on or to any person under~~  
19 ~~eighteen years of age (a) without the prior written consent of the~~  
20 ~~parent or court appointed guardian of such person; (b) without the~~  
21 ~~presence of such parent or guardian during the procedure; or (c)~~  
22 ~~without retaining a copy of such consent for a period of five years~~  
23 Applying a tattoo, brand, or permanent color on or to any person  
24 under eighteen years of age or performing body piercing on any  
25 person under sixteen years of age.
- 26 Sec. 12. Section 71-3,236, Revised Statutes Supplement,  
27 2004, is amended to read:

1 71-3,236. No person shall ~~perform body art~~ apply a  
 2 tattoo, brand, or permanent color on or to any person under  
 3 eighteen years of age. No person shall perform body piercing on  
 4 any person under sixteen years of age. Violation of this section  
 5 constitutes grounds for immediate suspension of the license to  
 6 engage in any of the practices of body art of the person committing  
 7 the violation, without the prior written consent of the parent or  
 8 court-appointed guardian of such person. The person giving such  
 9 consent must be present during the procedure. A copy of such  
 10 consent shall be retained for a period of five years by the person  
 11 performing such body art. Nothing in this section shall be  
 12 construed to require the performance of body art on a person under  
 13 eighteen years of age. Violation of this section is a Class III  
 14 misdemeanor."

15 2. On page 67, line 11, after "71-1,147.35," insert  
 16 "71-374, 71-375,"; and in line 13 strike "and 71-1,142" and insert  
 17 "71-1,142, 71-3,177, and 71-3,236".

18 3. Renumber the remaining sections accordingly.

Senator Stuhr offered the following amendment to her pending amendment:

FA154

Amend AM0816

Strike Sections 11 and 12.

The Stuhr amendment was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

The Stuhr amendment, AM0816, as amended, was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 739.** E & R amendment, AM7071, printed separately and referred to on page 1054, was adopted.

Senator Loudon withdrew his pending amendment, AM0813, found on page 868.

Senator Beutler withdrew his pending amendment, AM0935, found on page 998.

Senator Cunningham withdrew his pending amendment, AM1029, found on page 1089.

Senator Cunningham offered the following amendment:

AM1148

- 1 1. On page 27, line 25, strike "voluntarily but" and
- 2 insert "but voluntarily"; in line 26 strike the comma and insert
- 3 "at the place of employment"; and in line 27 before the semicolon

4 insert "between household members".

5 2. On page 33, line 6, strike "and for" and insert "and  
6 subsequent to filing the claim which establishes the previous  
7 benefit year, the individual has insured work in at least four  
8 weeks. For".

9 3. On page 48, line 15, after the period insert "For an  
10 employer with less than sixteen consecutive calendar quarters of  
11 contribution experience, the employer's average taxable payroll  
12 shall be determined based upon the four-calendar-quarter periods  
13 for which contributions are payable.".

14 4. Strike beginning with page 49, line 27, through page  
15 50, line 7, and insert

16 "(f) The state's reserve ratio shall be calculated by  
17 dividing the amount available to pay benefits in the Unemployment  
18 Trust Fund and the State Unemployment Insurance Trust Fund as of  
19 September 30, 2005, and each September 30 thereafter, less any  
20 outstanding obligations and amounts appropriated therefrom by the  
21 state's total wages from the four calendar quarters ending on such  
22 September 30. For purposes of this section, total wages shall mean  
23 all remuneration paid by an employer in employment. The state's  
24 reserve ratio shall be applied to the table in this subdivision to  
1 determine the yield factor for the upcoming rate year.".

2 5. On page 55, line 24, after "abuse" insert "as defined  
3 in section 42-903 between household members".

The Cunningham amendment was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

Senators Beutler and Cunningham offered the following amendment:  
AM1159

(Amendments to E & R amendments, AM7071)

1 1. On page 26, line 17, after the stricken matter insert  
2 "(1)"; in line 18 after the comma insert "through December 31,  
3 2005."; and strike beginning with "except" in line 20 through "if"  
4 in line 26 and insert "but shall not exceed one-half of the state  
5 average weekly wage as annually determined under section 48-121.02.

6 (2) For any benefit year beginning on or after January 1,  
7 2006, through December 31, 2007, an individual's weekly benefit  
8 amount shall be one-half of his or her average weekly wage rounded  
9 down to the nearest even whole dollar amount but shall not exceed  
10 two hundred eighty-eight dollars per week.

11 (3) For any benefit year beginning on or after January 1,  
12 2008, through December 31, 2010, an individual's weekly benefit  
13 amount shall be one-half of his or her average weekly wage rounded  
14 down to the nearest even whole dollar amount, but shall not exceed  
15 the lesser of one-half of the state average weekly wage as annually  
16 determined under section 48-121.02 or the previous year's maximum  
17 weekly benefit amount plus ten dollars per week.

18 (4) For any benefit year beginning on or after January 1,

19 2011, an individual's weekly benefit amount shall be one-half of  
 20 his or her average weekly wage rounded down to the nearest even  
 21 whole dollar amount, but shall not exceed one-half of the state  
 22 average weekly wage as annually determined under section 48-121.02.  
 23 (5) If".

- 1 2. On page 27, line 5, before "For" insert paragraphing
- 2 and "(6)".

The Beutler-Cunningham amendment was adopted with 30 ayes, 0 nays, 16 present and not voting, and 3 excused and not voting.

Senator Chambers reoffered his amendment, FA106, found on page 909.

Senator Chambers withdrew his amendment.

Senator Chambers reoffered his amendment, FA107, found on page 910 and considered on page 997.

Senator Chambers moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 3:

Chambers	Cunningham	Kruse
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Voting in the negative, 35:

Aguilar	Fischer	Janssen	Mines	Schrock
Brashear	Flood	Jensen	Pahls	Smith
Brown	Foley	Kopplin	Pedersen, Dw.	Stuhr
Burling	Friend	Kremer	Pederson, D.	Stuthman
Connealy	Heidemann	Landis	Raikes	Synowiecki
Cornett	Howard	Langemeier	Redfield	Thompson
Engel	Hudkins	McDonald	Schimek	Wehrbein

Present and not voting, 8:

Baker	Bourne	Cudaback	Preister
Beutler	Byars	Johnson	Price

Excused and not voting, 3:

Combs	Erdman	Louden
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The Chambers amendment lost with 3 ayes, 35 nays, 8 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 361.** E & R amendment, AM7070, printed separately and referred to on page 1077, was adopted.

Senator Bourne renewed his pending amendment, AM1114, found on page 1126.

The Bourne amendment was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Senators Flood and Beutler offered the following amendment:

FA153

(Amendments to E & R amendments, AM7070)

- 1 1. On page 15, line 4, after the period insert "A
- 2 certificate of dissolution of marriage shall not be used in lieu of
- 3 a deed or other conveyance of real estate to carry out the terms of
- 4 the dissolution decree or as evidence of title.".

The Flood-Beutler amendment was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 401.** E & R amendment, AM7073, found on page 1077, was adopted.

Senator Friend renewed his pending amendment, AM1038, found on page 1104.

The Friend amendment was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Senator Beutler offered the following amendment:

AM1145

(Amendments to Standing Committee amendments, AM0369)

- 1 1. Strike section 5 and insert the following new
- 2 section:
- 3 "Sec. 5. (1) A person who is the age of an elector and a
- 4 citizen of the United States residing outside the United States,
- 5 who has never resided in the United States, who has not registered
- 6 to vote in any other state of the United States, and who has a
- 7 parent registered to vote within this state shall be eligible to
- 8 register to vote and vote in one county in which either one of his
- 9 or her parents is a registered voter.
- 10 (2) A person registering to vote or voting pursuant to
- 11 this section shall sign and enclose with the registration

12 application and with the ballot being voted a form provided by the  
 13 election commissioner or county clerk substantially as follows: I  
 14 am the age of an elector and a citizen of the United States  
 15 residing outside the United States, I have never resided in the  
 16 United States, I have not registered to vote in any other state of  
 17 the United States, and I have a parent registered to vote in  
 18 ..... County, Nebraska. I hereby declare, under penalty of  
 19 election falsification, that the statements above are true to the  
 20 best of my knowledge.  
 21 THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT  
 22 FOR UP TO FIVE YEARS OR A FINE NOT TO EXCEED TEN THOUSAND DOLLARS,  
 23 OR BOTH.

1  
 2 .....  
 3 (Signature of Voter)".  
 4 2. On page 3, line 27, strike "to establish polling  
 5 places, other" and insert "with the consent of the appropriate  
 6 election commissioner or county clerk, for the establishment of  
 7 polling places which may be used for voting pursuant to section  
 8 32-1041 for the twenty days preceding the day of election. Such  
 9 polling places shall be in addition to the office of the election  
 10 commissioner or county clerk and the polling places otherwise  
 11 established pursuant to this section."  
 12 3. On page 4, strike lines 1 through 4.

Senator Schimek offered the following amendment to the Beutler pending amendment:

FA155

Amend AM1145

On page 1, line 19, after the word "falsification" insert "a Class IV felony,"

Pending.

## **STANDING COMMITTEE REPORTS**

### **Transportation and Telecommunications**

**LEGISLATIVE BILL 275.** Placed on General File as amended.

Standing Committee amendment to LB 275:

AM1010

1 1. On page 4, line 21, after "market" insert an  
 2 underscored period; and strike beginning with the second "and" in  
 3 line 21 through the period in line 23 and show the old matter as  
 4 stricken.  
 5 2. On page 14, line 25; and page 40, lines 12 and 13,  
 6 strike "trucks and truck-tractors", show as stricken, and insert  
 7 "vehicles".  
 8 3. On page 15, line 1; and page 39, lines 23 and 24,  
 9 strike "trucks", show as stricken, and insert "vehicles".  
 10 4. On page 15, line 19; page 16, line 21; and page 18,  
 11 lines 3 and 20, after "for" insert "a license plate or".

- 12 5. On page 15, line 21; page 16, line 22; and page 18,  
 13 lines 5 and 22, strike "for the plates" and show as stricken.
- 14 6. On page 16, lines 8 and 26; page 17, line 18; page  
 15 18, line 11; and page 19, line 3, after "vehicle" insert "or  
 16 trailer".
- 17 7. On page 17, line 8, strike "automobile", show as  
 18 stricken, and insert "car"; and in line 9 after the first comma  
 19 insert "trailer," and strike "truck", show as stricken, and insert  
 20 "vehicle".
- 21 8. On page 19, line 13, strike the second "trucks", show  
 22 as stricken, and insert "vehicles"; and in line 15 after the comma  
 23 insert "trailers,".
- 24 9. On page 24, line 19, after the first comma insert  
 1 "trailer," and strike "truck", show as stricken, and insert  
 2 "vehicle"; and in line 22 strike "truck or truck-tractor", show as  
 3 stricken, and insert "vehicle".
- 4 10. On page 37, lines 1, 7, and 28; and page 38, line 4,  
 5 strike "truck" and insert "vehicle or apportionable vehicle".
- 6 11. On page 37, line 12, strike "or"; after line 14  
 7 insert the following new subdivisions:  
 8 "(viii) A dealer-plated vehicle; or  
 9 (ix) A personal-use dealer-plated vehicle;"; in line 17  
 10 strike both occurrences of "truck" and insert "vehicle"; in line 23  
 11 strike "or"; and after line 25 insert the following new  
 12 subdivisions:  
 13 "(iv) A commercial vehicle or apportionable vehicle;  
 14 (v) A dealer-plated vehicle; or  
 15 (vi) A personal-use dealer-plated vehicle;".
- 16 12. On page 38, line 2, strike "and"; in line 5 after  
 17 "truck" insert "; and  
 18 (g) A dealer-plated trailer shall only be towed by:  
 19 (i) A dealer-plated vehicle;  
 20 (ii) A commercial vehicle; or  
 21 (iii) A personal-use dealer-plated vehicle"; and in line  
 22 6 after "(3)" insert "Nothing in subsection (2) of this section  
 23 shall be construed to prohibit any passenger car or commercial  
 24 vehicle from displaying dealer license plates or In Transit decals  
 25 authorized by section 60-320.  
 26 (4)".
- 27 13. On page 40, lines 3 and 4, strike "truck-tractors",  
 1 show as stricken, and insert "vehicles".
- 2 14. On page 40, lines 7 and 10; and page 41, lines 14  
 3 and 15 and 20, strike "truck or truck-tractor", show as stricken,  
 4 and insert "vehicle".

**LEGISLATIVE BILL 277.** Placed on General File as amended.  
 Standing Committee amendment to LB 277:  
 AM0886

- 1 1. Strike original sections 11 and 27 and insert the

2 following new sections:

3 "Sec. 11. (1) When an original certificate of title for  
4 a motor vehicle, commercial trailer, semitrailer, or cabin trailer  
5 is lost by the dealer selling such motor vehicle or trailer, the  
6 dealer may apply for an original certificate of title in the  
7 dealer's name. The following documentation and fees shall be  
8 submitted by the dealer:

9 (a) An application for a certificate of title in the name  
10 of such dealer;

11 (b) A photocopy from the dealer's records of the front  
12 and back of the lost original certificate of title assigned to a  
13 dealer;

14 (c) A notarized affidavit from such dealer stating that  
15 the original assigned certificate of title was lost; and

16 (d) The appropriate certificate of title fee.

17 (2) When an original certificate of title for a used  
18 motor vehicle, used commercial trailer, used semitrailer, or used  
19 cabin trailer is lost by the subsequent purchaser of the motor  
20 vehicle or trailer, the subsequent purchaser may request the dealer  
21 that sold the motor vehicle or trailer to apply for an original  
22 certificate of title in the dealer's name. The following  
23 documentation and fees shall be submitted by the dealer:

24 (a) An application for a certificate of title in the name  
1 of such dealer;

2 (b) A photocopy from the dealer's records of the front  
3 and back of the lost original certificate of title assigned to a  
4 dealer with a reassignment to the subsequent purchaser;

5 (c) A notarized affidavit from the subsequent purchaser  
6 of such motor vehicle or trailer for which the original assigned  
7 certificate of title was lost stating that the original assigned  
8 certificate of title was lost; and

9 (d) The appropriate certificate of title fee.

10 (3) The application and affidavit shall be on forms  
11 prescribed by the department. When the motor vehicle dealer or  
12 trailer dealer receives the new certificate of title in such  
13 dealer's name and assigns it to the purchaser, the dealer shall  
14 record the original sale date and provide the purchaser with a copy  
15 of the front and back of the original lost certificate of title as  
16 evidence as to why the purchase date of the motor vehicle or  
17 trailer is prior to the issue date of the new certificate of title.

18 Sec. 27. (1) When an original certificate of title for  
19 an all-terrain vehicle or minibike is lost by the dealer selling  
20 such all-terrain vehicle or minibike, the dealer may apply for an  
21 original certificate of title in the dealer's name. The following  
22 documentation and fees shall be submitted by the dealer:

23 (a) An application for a certificate of title in the name  
24 of such dealer;

25 (b) A photocopy from the dealer's records of the front  
26 and back of the lost original certificate of title assigned to a

27 dealer;

1 (c) A notarized affidavit from such dealer stating that  
2 the original assigned certificate of title was lost; and

3 (d) The appropriate certificate of title fee.

4 (2) When an original certificate of title for a used  
5 all-terrain vehicle or minibike is lost by the subsequent purchaser  
6 of the all-terrain vehicle or minibike, the subsequent purchaser  
7 may request the dealer that sold the all-terrain vehicle or  
8 minibike to apply for an original certificate of title in the  
9 dealer's name. The following documentation and fees shall be  
10 submitted by the dealer:

11 (a) An application for a certificate of title in the name  
12 of such dealer;

13 (b) A photocopy from the dealer's records of the front  
14 and back of the lost original certificate of title assigned to a  
15 dealer with a reassignment to the subsequent purchaser;

16 (c) A notarized affidavit from the subsequent purchaser  
17 of such all-terrain vehicle or minibike for which the original  
18 assigned certificate of title was lost stating that the original  
19 assigned certificate of title was lost; and

20 (d) The appropriate certificate of title fee.

21 (3) The application and affidavit shall be on forms  
22 prescribed by the department. When the all-terrain vehicle or  
23 minibike dealer receives the new certificate of title in such  
24 dealer's name and assigns it to the purchaser, the dealer shall  
25 record the original sale date and provide the purchaser with a copy  
26 of the front and back of the original lost certificate of title as  
27 evidence as to why the purchase date of the all-terrain vehicle or  
1 minibike is prior to the issue date of the new certificate of  
2 title."

3 2. On page 28, line 13; and page 38, line 6, after the  
4 period insert "Any certificate of title that is altered shall be  
5 deemed a mutilated certificate of title."

(Signed) Tom Baker, Chairperson

### **Natural Resources**

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Paul Dunn - Nebraska Environmental Trust Board  
Gloria Erickson - Nebraska Environmental Trust Board  
Susan Seacrest - Nebraska Environmental Trust Board

VOTE: Aye: Senators Hudkins, Kopplin, Kremer, Loudon, McDonald, Schrock, Smith, Stuhr. Nay: None. Absent: None.

(Signed) Ed Schrock, Chairperson

### AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 689:

AM1109

(Amendments to E & R amendments, AM7082)

- 1 1. On page 2, line 24, after "shall" insert "submit its
- 2 improvement plan and".

Senator Beutler filed the following amendment to LB 709:

AM1079

(Amendments to E & R amendments, AM7080)

- 1 1. On page 1, line 14, strike "has" and insert "may".
- 2 2. On page 4, line 2, after the period insert "The
- 3 council shall review the plan and issue its recommendations to the
- 4 Governor and the Legislature no later than January 1, 2006".

Senators Bourne and Landis filed the following amendment to LB 753:

AM1136

(Amendments to Standing Committee amendments, AM0643)

- 1 1. On page 7, line 26, strike "This" and insert "Except
- 2 when acting as a subcontractor for a public utility, this".
- 3 2. On page 8, line 3, after "performed" insert "on the
- 4 customer's side of the utility demarcation point".

### RESOLUTION

**LEGISLATIVE RESOLUTION 75.** Introduced by D. Pederson, 42.

**PURPOSE:** The purpose of this resolution is to review the recommendations of key priorities set forth by the LR 174 Task Force in 2003, for the state's system of postsecondary education. Expansion and diversification of Nebraska's economy is necessary in order to sustain essential public services sponsored or aided by the state. The state's system of postsecondary education is integral to the highest possible levels of educational attainment for Nebraskans.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Legislature create a Legislative Evaluation Task Force which shall review progress made toward the priorities set forth by the LR 174 Task Force.

2. That the Legislative Evaluation Task Force shall consist of: (a) Three members of the Education Committee of the Legislature, appointed by the chairperson of the committee, (b) three members of the Appropriations Committee of the Legislature, appointed by the chairperson of the committee, and (c) three members of the Legislature, appointed by the Executive Board of the Legislative Council. The chairperson of the task force shall be selected by the Executive Board from among the membership

of the task force.

3. That the Coordinating Commission for Postsecondary Education shall provide a report to the Legislature that evaluates progress made toward the attainment of the priorities outlined by the Legislative Evaluation Task Force, together with its recommendations. The report shall be provided by November 1 each year.

Referred to the Executive Board.

### **REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

Houston, Robert - Correctional Services, Department of - Judiciary

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

### **VISITORS**

Visitors to the Chamber were 18 third-grade students and leader from Brownie Troop 3082, Elkhorn; 90 tenth-grade students and sponsors from across the state; and 41 fourth-grade students and teachers from Sandoz Elementary School, Omaha.

### **RECESS**

At 12:01 p.m., on a motion by Senator Connealy, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Speaker Brashear presiding.

### **ROLL CALL**

The roll was called and all members were present except Senators Combs, Erdman, and Loudon who were excused; and Senators Brown, Burling, Chambers, Cunningham, Kruse, Landis, Dw. Pedersen, D. Pederson, and Raikes who were excused until they arrive.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LR 67, 70, 71, 72, and 73 were adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 67, 70, 71, 72, and 73.

**SENATOR CUDABACK PRESIDING****RESOLUTION****LEGISLATIVE RESOLUTION 76.** Introduced by Landis, 46.

WHEREAS, every child in foster care in Nebraska should be protected from physical, sexual, verbal, and emotional abuse and from spiritual neglect; and

WHEREAS, every reasonable effort should be made to enable a child to remain in his or her biological home, including provision of financial and other assistance or services as needed; and

WHEREAS, every child in foster care in Nebraska should have a placement plan that reflects the child's best interests and that is designed to facilitate the child's return home in a timely manner or a permanent placement appropriate to the needs of the child; and

WHEREAS, every child in foster care in Nebraska should receive an explanation, appropriate to the age of the child, as to why he or she has been placed in the custody of the Department of Health and Human Services and, if age appropriate, should be allowed to attend court hearings, speak to the judge, and be heard by the court; and

WHEREAS, every child in foster care in Nebraska should be placed in a home where the shelter or foster caregiver is aware of and understands the child's history, needs, and risk factors and the child should know in return what is expected of him or her in the foster placement by the foster caregiver; and

WHEREAS, every child in foster care in Nebraska should expect to live in a safe, healthy, and comfortable placement, to receive adequate, healthy food and adequate clothing, and to be treated with respect; and

WHEREAS, every child in foster care in Nebraska should receive medical, dental, vision, and mental health screening assessments and testing upon adjudication into foster care and should then receive whatever treatment or services are identified as necessary as soon as practical; and

WHEREAS, every child in foster care in Nebraska should be able to attend school and participate in extracurricular activities and personal activities consistent with the child's age and development, should have social contacts with people outside of the foster care system, such as church members, friends, and teachers, and should be able to attend religious services of his or her choice; and

WHEREAS, every child in foster care in Nebraska should receive at least monthly communication from his or her caseworker and should receive honest and timely information about the decisions the department is making that affect his or her life; and

WHEREAS, every child in foster care in Nebraska should be free from repeated changes in placement before his or her return home or permanent placement; and

WHEREAS, every child in foster care in Nebraska should be able to visit and talk with biological parents, brothers and sisters, grandparents, and other friends and relatives who are important to the child, unless restricted by a court.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislative, Executive, and Judicial branches of government should combine efforts to insure and improve timely and safe permanent placements of children and to provide adequate resources to the systems striving to accomplish this work.

2. That a copy of this resolution be sent to Governor Dave Heineman and the Governor's Youth Advisory Council.

### **SPEAKER'S ANNOUNCEMENT**

Pursuant to Rule 4, Section 8, LR 76 was referred to the Reference Committee.

### **SELECT FILE**

**LEGISLATIVE BILL 401.** The Schimek pending amendment, FA155, found in this day's Journal, to the Beutler pending amendment, was renewed.

The Schimek amendment was adopted with 29 ayes, 0 nays, 8 present and not voting, and 12 excused and not voting.

The Beutler pending amendment, AM1145, found in this day's Journal, as amended, was renewed.

The Beutler amendment was adopted with 30 ayes, 0 nays, 7 present and not voting, and 12 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 161.** E & R amendment, AM7072, printed separately and referred to on page 1077, was adopted.

Senator Jensen renewed his pending amendment, AM1044, found on page 1089.

The Jensen amendment was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Senator Price withdrew her pending amendment, AM1054, found on page 1111.

Senators Price, Beutler, and Friend offered the following amendment:  
AM1162

(Amendments to E & R amendments, AM7072)

- 1 1. Insert the following new section:
- 2 "Section 1. Section 15-201, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:

4 15-201. Cities of the primary class shall be bodies  
5 corporate and politic and shall have power:  
6 (1) To sue and be sued;  
7 (2) To purchase, lease, or otherwise acquire as  
8 authorized by their home rule charters or state statutes real  
9 estate or personal property within or without the limits of the  
10 city for its use for a public purpose;  
11 (3) To purchase real or personal property upon sale for  
12 general or special taxes or assessments and to lease, sell, convey,  
13 or exchange such property so purchased;  
14 (4) To sell, convey, exchange, or lease real or personal  
15 property owned by the city in such manner and upon such terms and  
16 conditions as shall be deemed in the best interests of the city as  
17 authorized by its home rule charter, except that real estate owned  
18 by the city may be conveyed without consideration to the State of  
19 Nebraska for state armory sites or, if acquired for state armory  
20 sites, shall be conveyed in the manner strictly as provided in  
21 sections 18-1001 to 18-1006;  
22 (5) To make contracts and do all acts relative to the  
23 property and concerns of the city necessary or incident or  
24 appropriate to the exercise of its corporate powers, including  
25 powers granted by the Constitution of Nebraska or exercised by or  
26 pursuant to a home rule charter adopted pursuant thereto and  
27 including the power to execute such bonds and obligations on the  
28 part of the city as may be required in judicial proceedings;  
29 (6) To purchase, construct, and otherwise acquire, own,  
30 maintain, and operate public service and public utility property  
31 and facilities within and without the limits of the city and to  
32 redeem such property from prior encumbrance in order to protect or  
33 preserve the interest of the city therein and to exercise such  
34 other and further powers as may be necessary or incident or  
35 appropriate to the powers of such city, including powers granted by  
36 the Constitution of Nebraska or exercised by or pursuant to a home  
37 rule charter adopted pursuant thereto. If the public service or  
38 public utility property or facility is located outside the limits  
39 of the city but within the zoning jurisdiction of another political  
40 subdivision, the city and the other political subdivision may by  
41 interlocal agreement provide or exchange services, including  
42 utility services, relating to the property or facilities; ~~and~~  
43 (7) To receive grants, devises, donations, and bequests  
44 of money or property for public purposes in trust or otherwise; and  
45 (8) To provide for the planting, maintenance, protection,  
46 and removal of shade, ornamental, and other useful trees upon the  
47 streets or boulevards; to assess the cost thereof, when  
48 appropriate, as a special assessment against the property specially  
49 benefited to the extent of benefits received; and to provide by  
50 general ordinance for the manner in which such benefits are to be  
51 measured and the assessments calculated. The city may create  
52 districts by ordinance which shall designate the property within

3 the district to be benefited. Upon the proposed formation by  
4 ordinance of a special assessment district pursuant to this  
5 subdivision, the city shall mail copies of such proposed ordinance  
6 and this subdivision to the owners of the record title of any  
7 property abutting upon the street, streets, public way, or public  
8 grounds proposed to be improved or parts thereof which are within  
9 such district not less than ten days prior to the public hearing  
10 for the ordinance. The requirement to mail copies under this  
11 subdivision shall be satisfied by mailing a copy of the ordinance  
12 and this subdivision by United States mail to the last-known  
13 address of the owners of record title. Notwithstanding the  
14 provisions of any city charter and except as provided below, no  
15 such improvement shall be finally ordered by the city council until  
16 a petition, signed by the owners of the record title representing a  
17 majority of the front footage of property directly abutting upon  
18 the street, streets, public way, or public grounds proposed to be  
19 improved, or parts thereof, is presented and filed with the city  
20 clerk petitioning therefor. The sufficiency of the petitions and  
21 objections so presented and the sufficiency of notice as provided  
22 in this subdivision shall be determined by the city council and its  
23 determination thereof shall be conclusive in the absence of  
24 objections made and presented to the city council prior to the  
25 letting of the contract for the improvement. In determining the  
26 sufficiency of the petitions so presented, intersections shall be  
27 disregarded and any lot or ground owned by the city shall not be  
1 counted for or against such improvement. If an assessment district  
2 is proposed without a prior authorizing petition as described in  
3 this subdivision, the owners of the record title representing more  
4 than fifty percent of the front footage of the property abutting  
5 upon the streets, avenues, or parts thereof which are within such  
6 proposed district may, by petition, stop formation of such  
7 district. Such written protest shall be submitted to the city  
8 council or clerk within thirty calendar days after publication of  
9 notice concerning the ordinance in a newspaper of general  
10 circulation in the city.

11 The powers shall be exercised by the mayor and council of  
12 the city except in cases otherwise specified by law. The mayor and  
13 council shall adopt a corporate seal for the use of any officer,  
14 board, or agent of the city whose duties require an official  
15 seal."

16 2. On page 11, line 21, after "sections" insert  
17 "15-201,".

18 3. Renumber the remaining sections accordingly.

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 1 nay, and 20 not voting.

The Price et al. amendment was adopted with 25 ayes, 2 nays, 18 present

and not voting, and 4 excused and not voting.

Senator Beutler offered the following amendment:

AM1087

(Amendments to E & R amendments, AM7072)

- 1 1. On page 2, strike lines 11 through 23 and insert:
- 2 "(a) There is reserved to the city the right to maintain,
- 3 operate, repair, and renew public utilities existing at the time
- 4 title to the property is vacated there; and
- 5 (b) There is reserved to the city, any public utilities,
- 6 and any cable television systems the right to maintain, repair,
- 7 renew, and operate water mains, gas mains, pole lines, conduits,
- 8 electrical transmission lines, sound and signal transmission lines,
- 9 and other similar services and equipment and appurtenances,
- 10 including lateral connections or branch lines, above, on, or below
- 11 the surface of the ground that are existing as valid easements at
- 12 the time title to the property is vacated for the purposes of
- 13 serving the general public or the abutting properties and to enter
- 14 upon the premises to accomplish such purposes at any and all
- 15 reasonable times.".
- 16 2. On page 8, strike lines 3 through 15 and insert:
- 17 "(a) There is reserved to the city or village the right
- 18 to maintain, operate, repair, and renew public utilities existing
- 19 at the time title to the property is vacated there; and
- 20 (b) There is reserved to the city or village, any public
- 21 utilities, and any cable television systems the right to maintain,
- 22 repair, renew, and operate water mains, gas mains, pole lines,
- 23 conduits, electrical transmission lines, sound and signal
- 1 transmission lines, and other similar services and equipment and
- 2 appurtenances, including lateral connections or branch lines,
- 3 above, on, or below the surface of the ground that are existing as
- 4 valid easements at the time title to the property is vacated for
- 5 the purposes of serving the general public or the abutting
- 6 properties and to enter upon the premises to accomplish such
- 7 purposes at any and all reasonable times.".

The Beutler amendment was adopted with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

Senator Dw. Pedersen offered the following amendment:

AM1165

(Amendments to E & R amendments, AM7072)

- 1 1. Insert the following new section:
- 2 "Sec. 8. Section 74-1307, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 74-1307. For carrying out the purposes and powers set
- 5 forth in sections 74-1302, 74-1303, and 74-1305, including paying
- 6 the cost thereof, the district may: (1) Borrow money and issue its
- 7 negotiable general obligation bonds upon such terms and conditions

8 as the board of directors may determine and without a vote of the  
 9 electors; ~~except that no such bonds shall be issued more than~~  
 10 ~~twenty-five years after the creation of such district;~~ (2) issue  
 11 warrants to contractors and others furnishing services or materials  
 12 or in satisfaction of other obligations created under sections  
 13 74-1302, 74-1303, and 74-1305, such warrants to be issued in such  
 14 amounts and on such terms and conditions as the board shall  
 15 determine, and to be redeemed and paid upon the sale of bonds or  
 16 receipt of other funds available for such purpose; and (3)  
 17 establish a sinking fund for the payment of such bonds as may be  
 18 issued under this section."  
 19 2. Renumber the remaining sections and correct the  
 20 repealer accordingly.

The Dw. Pedersen amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 551.** E & R amendment, AM7075, found on page 1077, was adopted.

Senator Jensen renewed his pending amendment, AM1113, found on page 1138.

The Jensen amendment was adopted with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

Senator Jensen renewed his pending amendment, AM1122, found on page 1139.

The Jensen amendment was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Senator Jensen offered the following amendment:  
 AM1146

(Amendments to Standing Committee amendments, AM0695)

- 1 1. Strike section 2.
- 2 2. On page 10, line 1, strike "71-811,".
- 3 3. Renumber the remaining sections accordingly.

## **SENATOR JANSSEN PRESIDING**

The Jensen amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

## **SENATOR CUDABACK PRESIDING**

Advanced to E & R for engrossment.

**MOTION - Return LB 503 to Select File**

Senator Raikes moved to return LB 503 to Select File for his specific pending amendment, AM1046, found on page 1098.

The Raikes motion to return prevailed with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 503.** The Raikes specific pending amendment, AM1046, found on page 1098, was adopted with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

Advanced to E & R for reengrossment.

**REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LR 76	Judiciary

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

**AMENDMENT - Print in Journal**

Senator Landis filed the following amendment to LB 13:  
(Amendment, AM1009, is printed separately and available in the Bill Room, Room 1104.)

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Price asked unanimous consent to have her name added as cointroducer to LB 389. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 50 fourth-grade students and teachers from Bel Air Elementary School, Norfolk; Byron Hansen and Pete Kotsiopoulos from Kearney; 50 fourth- and fifth-grade students and teacher from Hawthorne Elementary School, Hastings; 40 high school students and sponsor from Family Community Career Leaders of America; and Judy Murphy from Falls City.

**ADJOURNMENT**

At 4:03 p.m., on a motion by Senator Mines, the Legislature adjourned until 9:00 a.m., Tuesday, April 12, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**SIXTIETH DAY - APRIL 12, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SIXTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, April 12, 2005

**PRAYER**

The prayer was offered by Senator Janssen.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Combs who was excused; and Senators Brown and Dw. Pedersen who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifty-ninth day was approved.

**GENERAL FILE**

**LEGISLATIVE BILL 480.** The Standing Committee amendment, AM0802, found on page 861 and considered on page 1136, was renewed.

Senator Thompson renewed her pending amendment, AM0948, found on page 1078 and considered on page 1137, to the Standing Committee amendment.

Senator Jensen moved the previous question. The question is, "Shall the debate now close?"

Senator Bourne requested a ruling of the Chair on whether there had been a full and fair debate, pursuant to Rule 7, Sec. 4, on the Thompson amendment.

The Chair ruled there had been a full and fair debate on the Thompson amendment.

The motion to cease debate failed with 15 ayes, 18 nays, and 16 not voting.

Senator Thompson moved the previous question. The question is, "Shall the debate now close?" The motion failed with 18 ayes, 12 nays, and 19 not voting.

Senator Thompson withdrew her amendment.

Senator Bourne renewed his pending amendment, AM1052, found on page 1092, to the Standing Committee amendment.

Pending.

### **SELECT COMMITTEE REPORT**

#### **Enrollment and Review**

**LEGISLATIVE BILL 548.** Placed on Select File as amended.

E & R amendment to LB 548:

AM7085

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 71-7607, Revised Statutes
- 4 Supplement, 2004, is amended to read:
- 5 71-7607. (1) The Nebraska Medicaid Intergovernmental
- 6 Trust Fund is created. The fund shall include revenue received
- 7 from governmental nursing facilities receiving payments for nursing
- 8 facility services under the medical assistance program established
- 9 pursuant to section 68-1018. The Department of Health and Human
- 10 Services Finance and Support shall remit such revenue to the State
- 11 Treasurer for credit to the fund. The department shall adopt and
- 12 promulgate rules and regulations to establish procedures for
- 13 participation by governmental nursing facilities and for the
- 14 receipt of such revenue under this section. Money from the
- 15 Nebraska Medicaid Intergovernmental Trust Fund shall be transferred
- 16 to the Nebraska Health Care Cash Fund as provided in section
- 17 71-7611.
- 18 (2) The department may use revenue in the Nebraska
- 19 Medicaid Intergovernmental Trust Fund to offset any unanticipated
- 20 reductions in medicaid funds received under this section.
- 21 (3) ~~For FY2003-04 and FY2004-05, transfers may be made~~
- 22 ~~from the fund to the Department of Health and Human Services Cash~~
- 23 ~~Fund, the Behavioral Health Services Fund, and the Attorney General~~
- 24 ~~Child Protection Cash Fund at the direction of the Legislature to~~
- 1 fund child welfare and protection activities and emergency
- 2 protective services. The Department of Administrative Services
- 3 shall administratively create the Attorney General Child Protection
- 4 Cash Fund to be administered by the office of the Attorney General
- 5 for the purpose of receiving fund transfers to assist with the
- 6 prosecution of crimes against children.
- 7 (4) The State Treasurer shall transfer two million two

8 hundred twenty thousand dollars from the Nebraska Medicaid  
9 Intergovernmental Trust Fund to the Department of Health and Human  
10 Services Cash Fund on or before May 1, 2004. The State Treasurer  
11 shall transfer five million four hundred twenty thousand dollars  
12 from the Nebraska Medicaid Intergovernmental Trust Fund to the  
13 Department of Health and Human Services Cash Fund on or before July  
14 15, 2004. The State Treasurer shall transfer eighty thousand  
15 dollars from the Nebraska Medicaid Intergovernmental Trust Fund to  
16 the Attorney General Child Protection Cash Fund on or before May 1,  
17 2004. The State Treasurer shall transfer eighty thousand dollars  
18 from the Nebraska Medicaid Intergovernmental Trust Fund to the  
19 Attorney General Child Protection Cash Fund on or before July 15,  
20 2004.

21 (5) Any money in the Nebraska Medicaid Intergovernmental  
22 Trust Fund available for investment shall be invested by the state  
23 investment officer pursuant to the Nebraska Capital Expansion Act  
24 and the Nebraska State Funds Investment Act.

25 Sec. 2. Section 71-7608, Revised Statutes Supplement,  
26 2004, is amended to read:

27 71-7608. The Nebraska Tobacco Settlement Trust Fund is  
1 created. The fund shall include any settlement payments or other  
2 revenue received by the State of Nebraska in connection with any  
3 tobacco-related litigation to which the State of Nebraska is a  
4 party. The Department of Health and Human Services Finance and  
5 Support shall remit such revenue to the State Treasurer for credit  
6 to the fund, except that of such revenue received on or after April  
7 1, 2005, ~~two three million five hundred thousand~~ dollars shall be  
8 credited annually to the Tobacco Prevention and Control Cash Fund.  
9 Subject to the terms and conditions of such litigation, money from  
10 the Nebraska Tobacco Settlement Trust Fund shall be transferred to  
11 the Nebraska Health Care Cash Fund as provided in section 71-7611.  
12 Any money in the Nebraska Tobacco Settlement Trust Fund available  
13 for investment shall be invested by the state investment officer  
14 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
15 State Funds Investment Act.

16 Sec. 3. Section 71-7611, Revised Statutes Supplement,  
17 2004, is amended to read:

18 71-7611. (1) The Nebraska Health Care Cash Fund is  
19 created. The State Treasurer shall transfer ~~fifty~~ fifty-two  
20 million dollars annually no later than July 15 from the Nebraska  
21 Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco  
22 Settlement Trust Fund to the Nebraska Health Care Cash Fund, except  
23 that such amount shall be reduced by the amount of the unobligated  
24 balance in the Nebraska Health Care Cash Fund at the time the  
25 transfer is made. The state investment officer upon consultation  
26 with the Nebraska Investment Council shall advise the State  
27 Treasurer on the amounts to be transferred from the Nebraska  
1 Medicaid Intergovernmental Trust Fund and from the Nebraska Tobacco  
2 Settlement Trust Fund under this section in order to sustain such

3 transfers in perpetuity. The state investment officer shall report  
 4 to the Legislature on or before October 1 of every even-numbered  
 5 year on the sustainability of such transfers. Except for transfers  
 6 made pursuant to subsections (3) and (4) of this section, no more  
 7 than fifty-two million dollars may be appropriated or transferred  
 8 from the Nebraska Health Care Cash Fund in any fiscal year.

9 (2) Any money in the Nebraska Health Care Cash Fund  
 10 available for investment shall be invested by the state investment  
 11 officer pursuant to the Nebraska Capital Expansion Act and the  
 12 Nebraska State Funds Investment Act.

13 (3) ~~The State Treasurer shall transfer two million~~  
 14 ~~dollars from the Nebraska Health Care Cash Fund to the University~~  
 15 ~~of Nebraska Medical Center Designated Cash Fund within fifteen days~~  
 16 ~~after July 1, 2004.~~

17 (4) The State Treasurer shall transfer two million  
 18 dollars from the Nebraska Health Care Cash Fund to the University  
 19 of Nebraska Medical Center Designated Cash Fund within fifteen days  
 20 after July 1, 2005.

21 ~~(5)~~ (4) The State Treasurer shall transfer two million  
 22 dollars from the Nebraska Health Care Cash Fund to the University  
 23 of Nebraska Medical Center Designated Cash Fund within fifteen days  
 24 after July 1, 2006.

25 (5) No recipient of funds shall discriminate against any  
 26 person on the basis of sexual orientation.

27 Sec. 4. This act becomes operative on July 15, 2005.

1 Sec. 5. Original sections 71-7607, 71-7608, and 71-7611,  
 2 Revised Statutes Supplement, 2004, are repealed.

3 Sec. 6. The following sections are outright repealed:  
 4 Sections 71-7601 to 71-7604, 71-7609, and 71-7610, Reissue Revised  
 5 Statutes of Nebraska.

6 Sec. 7. Since an emergency exists, this act takes effect  
 7 when passed and approved according to law."

8 2. On page 1, line 6, after the first semicolon insert  
 9 "to prohibit discrimination by fund recipients; to provide an  
 10 operative date;".

(Signed) Michael Flood, Chairperson

## STANDING COMMITTEE REPORT

### Education

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Joyce Simmons - Coordinating Commission for Postsecondary Education

VOTE: Aye: Senators Bourne, Byars, Howard, Kopplin, McDonald, Raikes, Schrock, and Stuhr. Nay: None. Absent: None.

(Signed) Ron Raikes, Chairperson

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 542A.** Introduced by Burling, 33.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 542, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

### **AMENDMENTS - Print in Journal**

Senator Jensen filed the following amendment to LB 70:  
AM1156

- 1 1. On page 24, line 28, strike "fifteen", show as
- 2 stricken, and insert "twenty".

Senator Jensen filed the following amendment to LB 70:  
AM1153

- 1 1. On page 13, line 6, strike "may", show as stricken,
- 2 and insert "shall".

### **ANNOUNCEMENT**

It was announced that today is Senator Cudaback's birthday.

### **GENERAL FILE**

**LEGISLATIVE BILL 480.** The Bourne pending amendment, AM1052, found on page 1092 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 6 nays, and 18 not voting.

The Bourne amendment lost with 13 ayes, 27 nays, 7 present and not voting, and 2 excused and not voting.

Senator Bourne withdrew his pending amendment, AM1051, found on page 1097.

Senator Synowiecki renewed his pending amendment, AM1056, found on page 1117, to the Standing Committee amendment.

Senator Chambers requested a division of the question on the Synowiecki

amendment.

The Chair sustained the division of the question.

The first Synowiecki amendment, to the Standing Committee amendment, is as follows:

FA157

(Amendments to Standing Committee amendments, AM0802)

3 2. On page 5, line 4, strike "(a)"; and strike beginning  
4 with "serves" in line 5 through line 8 and insert "(a) holds a  
5 license issued under the Nebraska Liquor Control Act to sell  
6 alcoholic liquor at retail for consumption on the licensed premises  
7 and (b) is a pickle card operator as defined in section 9-316 which  
8 sells pickle cards on the licensed premises, a licensee which  
9 conducts a lottery under the Nebraska County and City Lottery Act  
10 on the licensed premises, or both.".

Pending.

### **AMENDMENT - Print in Journal**

Senator Thompson filed the following amendment to LB 480:

AM1179

(Amendments to Standing Committee amendments, AM0802)

1 1. On page 2, line 22, after "areas" insert ", except  
2 that in cases in which an entire room or hall is used for a private  
3 social function, the proprietor may allow smoking in the entire  
4 area".  
5 2. On page 5, line 5, strike the comma and insert "and";  
6 and in line 6 strike beginning with the first comma through the  
7 second comma.

### **VISITORS**

Visitors to the Chamber were Tyler Koch from Lincoln; Pastor Maetta Snyder from North Bend; 9 eighth-grade students, teacher, and sponsors from Phelps County R-4; 23 students from Johnson; 44 fourth-grade students and teachers from Blumfield Elementary School, Omaha; high school students and teacher from Sutherland; 7 first- through eighth-grade students and teacher from Valleyside #10, Ord; 15 student senators and sponsors from District 47; Lieutenant Governor Sheehy's mother and sisters, Mary Helen Sheehy, Peg Wallace, and Sue Henry, from Hastings; and 73 fourth-grade students and teachers from St. Pius-St. Leo School, Omaha.

### **RECESS**

At 11:56 a.m., on a motion by Senator Byars, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senator Combs who was excused; and Senators Brown, Cornett, Cunningham, Heidemann, Dw. Pedersen, and Wehrbein who were excused until they arrive.

**SELECT COMMITTEE REPORTS****Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 193, 276, 389, and 389A.

ER9030

Enrollment and Review Change to LB 276

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 7, line 6, "Chapter 60, article 3" has been struck and "sections 60-6,320 to 60-6,346" inserted.

(Signed) Michael Flood, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 673.** Title read. Considered.

The Standing Committee amendment, AM0867, printed separately and referred to on page 931, was considered.

Senator Loudon renewed his pending amendment, AM1007, found on page 1140, to the Standing Committee amendment.

The Loudon amendment was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

Senator Beutler offered the following amendment to the Standing Committee amendment:

AM1185

(Amendments to Standing Committee amendments, AM0867)

- 1 1. On page 9, line 16, after "exercised" insert "and
- 2 forty-eight-hours' written advanced notice of entrance is provided
- 3 to the property owner or occupant".

**SENATOR JENSEN PRESIDING****SENATOR CUDABACK PRESIDING**

The Beutler amendment was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Senator Beutler offered the following amendment to the Standing Committee amendment:

AM1186

(Amendments to Standing Committee amendments, AM0867)

- 1 1. On page 2, line 11; page 4, line 26; and page 6, line
- 2 9, after "property" insert "if the owner of the adjacent property
- 3 objects to such expansion".
- 4 2. On page 4, line 1, strike "and" and insert "and the
- 5 owner of the adjacent property objects to such expansion and the
- 6 county board".

The Beutler amendment was adopted with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

Senator Beutler offered the following amendment:

AM1187

(Amendments to Standing Committee amendments, AM0867)

- 1 1. Strike section 15.
- 2 2. On page 9, lines 17, 18, and 22, strike "shall" and
- 3 insert "may"; in line 20 insert "and" after the comma; and strike
- 4 beginning with "may" in line 20 through "(4)" in line 22.
- 5 3. On page 10, line 7, strike "shall" and insert "may";
- 6 and strike beginning with "to" in line 8 through "81-2,237" in line
- 7 14.
- 8 4. On page 12, line 21, strike "sections 81-2,236 and
- 9 81-2,237" and insert "section 81-2,236"; and in line 22 strike
- 10 "are" and insert "is".
- 11 5. Renumber the remaining section accordingly.

Senator Beutler asked unanimous consent to withdraw his pending amendment, AM1187, found in this day's Journal, and replace it with his substitute amendment, FA161, to the Standing Committee amendment. No objections. So ordered.

FA161

Amend AM0867

On page 8, line 23 strike the words "or fines"

**PRESIDENT SHEEHY PRESIDING**

The Beutler amendment was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Pending.

**STANDING COMMITTEE REPORT**  
**Natural Resources**

**LEGISLATIVE BILL 708.** Indefinitely postponed.

(Signed) Ed Schrock, Chairperson

**AMENDMENTS - Print in Journal**

Senator Chambers filed the following amendments to LB 673:

FA159

Amend AM0867

On page 1, strike lines 3 and 4.

FA160

Amend AM0867

On page 6, in line 22 strike "\$1,500" and insert "\$15,000"

FA162

Amend AM0867

On page 1, after line 6 insert "(6) In no event shall eradication be an option."

FA163

Amend AM0867

On page 1, in line 4 strike "Black-Tailed Prairie Dog Management" and insert "Dump the Responsibility of the State of Nebraska onto the Individual Landowner".

**VISITORS**

Visitors to the Chamber were 34 fourth-grade students and teacher from District 1-R, Grand Island; 16 fourth-grade students and teacher from Grant Elementary School, Norfolk; residents from Immanuel Lakeside Village Retirement Community, Omaha; 13 seventh- and eighth-grade students and teacher from Deshler Lutheran School; and 13 sixth-grade students and sponsors from Paxton.

The Doctor of the Day was Dr. Jaime Dodge from Lincoln.

**ADJOURNMENT**

At 4:04 p.m., on a motion by Senator Langemeier, the Legislature adjourned until 9:00 a.m., Wednesday, April 13, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**SIXTY-FIRST DAY - APRIL 13, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SIXTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, April 13, 2005

**PRAYER**

The prayer was offered by Pastor Lloyd Gnirk, St. Pius X Church, Omaha.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Landis and Dw. Pedersen who were excused; and Senators Cunningham, Heidemann, Loudon, Mines, Price, and Stuhr who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

Page 1154, line 10, strike "Senator Flood" and insert "Senators Flood and Beutler".

Page 1154, line 17, after "Flood" insert "-Beutler".

The Journal for the fifty-ninth day was approved as corrected.

The Journal for the sixtieth day was approved.

**SELECT COMMITTEE REPORTS  
Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 82 and 351.

ER9027

Enrollment and Review Change to LB 82

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, the matter beginning with "motor" in line 1 through line 6 and all amendments thereto have been struck and "personal property; to

amend sections 52-604, 60-6,114, 60-6,294, 60-6,297, 60-6,298, 60-2404, and 60-2410, Reissue Revised Statutes of Nebraska; to change provisions relating to liens, towing, and operation of emergency vehicles; to except emergency vehicles from size and weight restrictions and require a permit for operation of emergency vehicles as prescribed; to harmonize provisions; and to repeal the original sections." inserted.

(Signed) Michael Flood, Chairperson

### **MOTION - Approve Appointments**

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 1158:

Nebraska Environmental Trust Board

Paul Dunn

Gloria Erickson

Susan Seacrest

Voting in the affirmative, 31:

Aguilar	Cornett	Howard	Langemeier	Stuthman
Beutler	Cudaback	Hudkins	McDonald	Thompson
Brashear	Engel	Janssen	Pahls	Wehrbein
Burling	Erdman	Jensen	Raikes	
Byars	Fischer	Johnson	Schimek	
Combs	Flood	Kopplin	Schrock	
Connealy	Friend	Kremer	Smith	

Voting in the negative, 0.

Present and not voting, 10:

Baker	Brown	Foley	Pederson, D.	Redfield
Bourne	Chambers	Kruse	Preister	Synowiecki

Excused and not voting, 8:

Cunningham	Landis	Mines	Price
Heidemann	Louden	Pedersen, Dw.	Stuhr

The appointments were confirmed with 31 ayes, 0 nays, 10 present and not voting, and 8 excused and not voting.

### **GENERAL FILE**

**LEGISLATIVE BILL 480.** The first Synowiecki pending amendment, FA157, found on page 1173, to the Standing Committee amendment, was renewed.

Senator Synowiecki moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Senator Synowiecki requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Baker	Cunningham	Heidemann	McDonald	Stuhr
Bourne	Engel	Janssen	Mines	Stuthman
Combs	Fischer	Kopplin	Pahls	Synowiecki
Cornett	Flood	Langemeier	Smith	

Voting in the negative, 20:

Aguilar	Byars	Hudkins	Kruse	Schimek
Beutler	Chambers	Jensen	Preister	Schrock
Brown	Erdman	Johnson	Price	Thompson
Burling	Howard	Kremer	Redfield	Wehrbein

Present and not voting, 7:

Connealy	Foley	Louden	Raikes
Cudaback	Friend	Pederson, D.	

Excused and not voting, 3:

Brashear	Landis	Pedersen, Dw.
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The Synowiecki amendment lost with 19 ayes, 20 nays, 7 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Synowiecki asked unanimous consent to withdraw the balance of the original undivided amendment, AM1056, found on page 1117 and considered on page 1173. No objections. So ordered.

Senator Erdman withdrew his pending amendment, FA152, found on page 1137.

Senator Thompson renewed her pending amendment, AM1179, found on page 1174, to the Standing Committee amendment.

The Thompson amendment was adopted with 30 ayes, 1 nay, 15 present and not voting, and 3 excused and not voting.

Senator Thompson offered the following amendment to the Standing Committee amendment:

AM1190

(Amendments to Standing Committee amendments, AM0802)

- 1 1. On page 2, line 27, strike "Smoking" and insert "(a)
- 2 Except as otherwise provided in subdivision (b) of this subsection,
- 3 smoking".
- 4 2. On page 3, line 1, after the period insert
- 5 "(b) Restaurants that are a licensee which conducts a
- 6 lottery under the Nebraska County and City Lottery Act on the
- 7 licensed premises or are located within a licensed racetrack
- 8 enclosure that is not located on state property are exempt from the
- 9 provisions of subdivision (a) of this subsection until January 1,
- 10 2015.".

**SENATOR SCHIMEK PRESIDING****SENATOR CUDABACK PRESIDING**

Senator Thompson moved for a call of the house. The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Senator Bourne requested a roll call vote on the Thompson amendment.

Voting in the affirmative, 15:

Aguilar	Chambers	Cudaback	Kruse	Schrock
Beutler	Connealy	Cunningham	Preister	Thompson
Brown	Cornett	Howard	Price	Wehrbein

Voting in the negative, 14:

Baker	Foley	Langemeier	Mines	Smith
Bourne	Friend	Louden	Pahls	Stuthman
Erdman	Jensen	McDonald	Schimek	

Present and not voting, 15:

Brashear	Combs	Hudkins	Kopplin	Redfield
Burling	Fischer	Janssen	Pederson, D.	Stuhr
Byars	Heidemann	Johnson	Raikes	Synowiecki

Excused and not voting, 5:

Engel	Flood	Kremer	Landis	Pedersen, Dw.
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The Thompson amendment lost with 15 ayes, 14 nays, 15 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

The Standing Committee amendment, AM0802, found on page 861 and considered on pages 1136 and 1169, as amended, was renewed.

Senator Thompson moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator Jensen requested a roll call vote on the Standing Committee amendment.

Voting in the affirmative, 22:

Aguilar	Chambers	Jensen	Price	Thompson
Beutler	Connealy	Johnson	Raikes	Wehrbein
Brashear	Cornett	Kopplin	Redfield	
Brown	Foley	Kruse	Schimek	
Byars	Howard	Preister	Schrock	

Voting in the negative, 20:

Baker	Engel	Friend	Langemeier	Smith
Bourne	Erdman	Heidemann	McDonald	Stuhr
Combs	Fischer	Hudkins	Mines	Stuthman
Cunningham	Flood	Janssen	Pahls	Synowiecki

Present and not voting, 4:

Cudaback	Kremer	Louden	Pederson, D.
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Excused and not voting, 3:

Burling	Landis	Pedersen, Dw.
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The Standing Committee amendment, as amended, lost with 22 ayes, 20 nays, 4 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Thompson withdrew her pending amendment, FA151, found on page 1137.

Senator Thompson moved for a call of the house. The motion prevailed with 38 ayes, 0 nays, and 11 not voting.

Senator Thompson requested a roll call vote, in reverse order, on the advancement of the bill.

Voting in the affirmative, 19:

Aguilar	Chambers	Jensen	Preister	Schrock
Beutler	Cornett	Johnson	Price	Thompson
Brown	Foley	Kopplin	Redfield	Wehrbein
Byars	Howard	Kruse	Schimek	

Voting in the negative, 26:

Baker	Engel	Hudkins	Mines	Stuthman
Bourne	Erdman	Janssen	Pahls	Synowiecki
Combs	Fischer	Kremer	Pederson, D.	
Connealy	Flood	Langemeier	Raikes	
Cudaback	Friend	Louden	Smith	
Cunningham	Heidemann	McDonald	Stuhr	

Present and not voting, 1:

Brashear

Excused and not voting, 3:

Burling	Landis	Pedersen, Dw.
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Failed to advance to E & R for review with 19 ayes, 26 nays, 1 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

### AMENDMENTS - Print in Journal

Senator Erdman filed the following amendment to LB 480:  
AM1184

(Amendments to Standing Committee amendments, AM0802)

- 1 1. Insert the following new sections:
- 2 "Sec. 11. Section 71-5712, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 71-5712. Any person who violates ~~section 71-5707 the~~
- 5 Nebraska Clean Indoor Air Act shall be guilty of a Class V
- 6 misdemeanor.
- 7 Sec. 12. Section 77-2602, Reissue Revised Statutes of
- 8 Nebraska, is amended to read:
- 9 77-2602. (1) Every person engaged in distributing or
- 10 selling cigarettes at wholesale in this state shall pay to the Tax
- 11 Commissioner of this state a special privilege tax. This shall be
- 12 in addition to all other taxes. It shall be paid prior to or at
- 13 the time of the sale, gift, or delivery to the retail dealer in the
- 14 several amounts as follows: On each package of cigarettes
- 15 containing not more than twenty cigarettes, sixty-four cents per
- 16 package; and on packages containing more than twenty cigarettes,
- 17 the same tax as provided on packages containing not more than

18 twenty cigarettes for the first twenty cigarettes in each package  
19 and a tax of one-twentieth of the tax on the first twenty  
20 cigarettes on each cigarette in excess of twenty cigarettes in each  
21 package.

22 (2) Commencing July 1, 1994, and continuing until October  
23 1, 2004, the State Treasurer shall place the equivalent of  
1 twenty-one cents of such tax in the General Fund. Commencing  
2 October 1, 2004, the State Treasurer shall place the equivalent of  
3 forty-nine cents of such tax in the General Fund. The State  
4 Treasurer shall reduce the amount placed in the General Fund under  
5 this subsection by the amount prescribed in subdivision (3)(d) of  
6 this section. For purposes of this section, the equivalent of a  
7 specified number of cents of the tax shall mean that portion of the  
8 proceeds of the tax equal to the specified number divided by the  
9 tax rate per package of cigarettes containing not more than twenty  
10 cigarettes.

11 (3) The State Treasurer shall distribute the remaining  
12 proceeds of such tax in the following order:

13 (a) First, beginning July 1, 1980, the State Treasurer  
14 shall place the equivalent of one cent of such tax in the Nebraska  
15 Outdoor Recreation Development Cash Fund. For fiscal year  
16 distributions occurring after FY1998-99, the distribution under  
17 this subdivision shall not be less than the amount distributed  
18 under this subdivision for FY1997-98. Any money needed to increase  
19 the amount distributed under this subdivision to the FY1997-98  
20 amount shall reduce the distribution to the General Fund;

21 (b) Second, beginning July 1, 1993, the State Treasurer  
22 shall place the equivalent of three cents of such tax in the  
23 Department of Health and Human Services Finance and Support Cash  
24 Fund to carry out sections 81-637 to 81-640. For fiscal year  
25 distributions occurring after FY1998-99, the distribution under  
26 this subdivision shall not be less than the amount distributed  
27 under this subdivision for FY1997-98. Any money needed to increase  
1 the amount distributed under this subdivision to the FY1997-98  
2 amount shall reduce the distribution to the General Fund;

3 (c) Third, beginning July 1, 2001, and continuing until  
4 October 1, 2002, the State Treasurer shall place the equivalent of  
5 five cents of such tax in the Building Renewal Allocation Fund.  
6 Beginning October 1, 2002, and continuing until all the purposes of  
7 the Deferred Building Renewal Act have been fulfilled, the State  
8 Treasurer shall place the equivalent of seven cents of such tax in  
9 the Building Renewal Allocation Fund. The Legislature shall  
10 appropriate each fiscal year all sums inuring to the fund, plus  
11 interest earnings, for the Task Force for Building Renewal to be  
12 used to carry out its duties and to fulfill the purposes of the  
13 Deferred Building Renewal Act. Unexpended balances existing at the  
14 end of each fiscal year shall be, and are hereby, reappropriated.  
15 The distribution under this subdivision shall not be less than the  
16 amount distributed under this subdivision for FY1997-98. Any money

17 needed to increase the amount distributed under this subdivision to  
18 the FY1997-98 amount shall reduce the distribution to the General  
19 Fund;

20 (d) Fourth, beginning July 1, 1994, and continuing until  
21 July 1, 2003, the State Treasurer shall place in the Municipal  
22 Infrastructure Redevelopment Fund the sum of three million dollars  
23 each fiscal year to carry out the Municipal Infrastructure  
24 Redevelopment Fund Act. Commencing July 1, 2003, and continuing  
25 until July 1, 2005, the State Treasurer shall place in such fund  
26 the sum of five hundred twenty thousand dollars each fiscal year to  
27 carry out the act. Commencing July 1, 2005, and continuing until  
1 July 1, 2009, the State Treasurer shall place in such fund the sum  
2 of three million dollars each fiscal year to carry out the act.  
3 The Legislature shall appropriate the sum of five hundred twenty  
4 thousand dollars each year for fiscal years 2003-04 and 2004-05.  
5 The Legislature shall appropriate the sum of three million dollars  
6 each year for fiscal year 2005-06 through fiscal year 2008-09;

7 (e) Fifth, beginning July 1, 2001, the State Treasurer  
8 shall place the equivalent of two cents of such tax in the  
9 Information Technology Infrastructure Fund;

10 (f) Sixth, beginning July 1, 2001, and continuing until  
11 June 30, 2016, the State Treasurer shall place one million dollars  
12 each fiscal year in the City of the Primary Class Development Fund.  
13 If necessary, the State Treasurer shall reduce the distribution of  
14 tax proceeds to the General Fund pursuant to subsection (2) of this  
15 section by such amount required to fulfill the one million dollars  
16 to be distributed pursuant to this subdivision;

17 (g) Seventh, beginning July 1, 2001, and continuing until  
18 June 30, 2016, the State Treasurer shall place one million five  
19 hundred thousand dollars each fiscal year in the City of the  
20 Metropolitan Class Development Fund, except that the State  
21 Treasurer shall not place such amount in such fund if a city of the  
22 metropolitan class has established an ordinance described in  
23 subdivision (2) of section 71-5702. If necessary, the State  
24 Treasurer shall reduce the distribution of tax proceeds to the  
25 General Fund pursuant to subsection (2) of this section by such  
26 amount required to fulfill the one million five hundred thousand  
27 dollars to be distributed pursuant to this subdivision; and

1 (h) Eighth, beginning October 1, 2002, and continuing  
2 until October 1, 2004, the State Treasurer shall place the  
3 equivalent of twenty-eight cents of such tax in the Cash Reserve  
4 Fund.

5 (4) If, after distributing the proceeds of such tax  
6 pursuant to subsections (2) and (3) of this section, any proceeds  
7 of such tax remain, the State Treasurer shall place such remainder  
8 in the Nebraska Capital Construction Fund.

9 (5) The Legislature hereby finds and determines that the  
10 projects funded from the Municipal Infrastructure Redevelopment  
11 Fund and the Building Renewal Allocation Fund are of critical

12 importance to the State of Nebraska. It is the intent of the  
13 Legislature that the allocations and appropriations made by the  
14 Legislature to such funds or, in the case of allocations for the  
15 Municipal Infrastructure Redevelopment Fund, to the particular  
16 municipality's account not be reduced until all contracts and  
17 securities relating to the construction and financing of the  
18 projects or portions of the projects funded from such funds or  
19 accounts of such funds are completed or paid or, in the case of the  
20 Municipal Infrastructure Redevelopment Fund, the earlier of such  
21 date or July 1, 2009, and that until such time any reductions in  
22 the cigarette tax rate made by the Legislature shall be  
23 simultaneously accompanied by equivalent reductions in the amount  
24 dedicated to the General Fund from cigarette tax revenue. ~~Any~~  
25 Allocations and appropriations for the Municipal Infrastructure  
26 Redevelopment Fund to a particular municipality's account shall be  
27 reduced if the municipality has established an ordinance described  
1 in subdivision (2) of section 71-5702. Except as provided in  
2 subsection (6) of this section, any provision made by the  
3 Legislature for distribution of the proceeds of the cigarette tax  
4 for projects or programs other than those to (a) the General Fund,  
5 (b) the Nebraska Outdoor Recreation Development Cash Fund, (c) the  
6 Department of Health and Human Services Finance and Support Cash  
7 Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) the  
8 Building Renewal Allocation Fund, (f) the Information Technology  
9 Infrastructure Fund, (g) the City of the Primary Class Development  
10 Fund, (h) the City of the Metropolitan Class Development Fund, and  
11 (i) the Cash Reserve Fund shall not be made a higher priority than  
12 or an equal priority to any of the programs or projects specified  
13 in subdivisions (a) through (i) of this subsection.  
14 (6) Any reduction in the account of a particular  
15 municipality described in subsection (5) of this section shall be  
16 transferred to the Rural Development Cash Fund.  
17 Sec. 13. Section 81-3603, Revised Statutes Supplement,  
18 2004, is amended to read:  
19 81-3603. The Rural Development Commission shall:  
20 (1) Focus attention on and increase awareness of the  
21 opportunities and needs of rural Nebraskans;  
22 (2) Advocate for rural Nebraska by proposing solutions to  
23 rural challenges;  
24 (3) Strengthen community sustainability and growth in  
25 rural Nebraska through increased community-based wealth creation,  
26 expanded economic opportunity, and improved quality of life;  
27 (4) Stimulate rural development innovation and foster  
1 information transfer to, from, and within rural Nebraska;  
2 (5) Encourage and support continuity, coordination, and  
3 cooperation among national, state, multicommunity, and local rural  
4 development initiatives and service providers;  
5 (6) Ensure that rural Nebraskans are afforded the  
6 opportunity to determine rural Nebraska's development agenda;

7 (7) Serve as an advisory body to the Governor, state  
8 agencies, and the Legislature on rural development issues;  
9 (8) Establish an information clearinghouse on rural  
10 challenges and needs, development services, model initiatives,  
11 available resources, and service providers;  
12 (9) Foster community-based development initiatives  
13 through multicommunity partnerships;  
14 (10) Support strategic planning and research for and  
15 evaluation of rural development initiatives and service providers  
16 by administering the Nebraska Development Network Program;  
17 (11) Serve as Nebraska's rural development council within  
18 the meaning of the National Rural Development Partnership by  
19 providing inventories, reports, assessments, and implementation  
20 plans as appropriate; ~~and~~

21 (12) Participate in the Partnership for Rural Nebraska;  
22 and

23 (13) If sufficient funds are available as determined by  
24 the commission, establish a grant program to assist rural  
25 development initiatives and economic opportunities.

26 Sec. 14. Section 81-3606, Revised Statutes Supplement,  
27 2004, is amended to read:

1 81-3606. There is hereby created the Rural Development  
2 Cash Fund which shall be used by the Rural Development Commission  
3 for the purposes of sections 81-3601 to 81-3605. Money credited to  
4 the fund shall include any monetary gifts, grants, and donations,  
5 proceeds from contracts for services, and reimbursements of  
6 expenses. Money credited to the fund may include tobacco proceeds  
7 transferred from the Municipal Infrastructure Redevelopment Fund  
8 pursuant to subsection (6) of section 77-2602. Any grant funds  
9 under the National Rural Development Partnership received by the  
10 State of Nebraska from the United States Department of Agriculture  
11 shall be allocated to the commission. Any money in the fund  
12 available for investment shall be invested by the state investment  
13 officer pursuant to the Nebraska Capital Expansion Act and the  
14 Nebraska State Funds Investment Act.

15 Sec. 16. Since an emergency exists, this act takes  
16 effect when passed and approved according to law."  
17 2. On page 1, line 9, after the period insert "(1)"; and  
18 strike beginning with "Nothing" in line 13 through line 17 and  
19 insert the following:

20 "(2)(a) Nothing in the act shall be construed to restrict  
21 or prohibit a governing body of a county, city, or village from  
22 establishing and enforcing ordinances at least as stringent as, or  
23 more stringent than, the provisions of the Nebraska Clean Indoor  
24 Air Act.

25 (b) Notwithstanding any provision of section 77-2602 to  
26 the contrary, any county, city, or village having an ordinance more  
27 stringent than the provisions of the Nebraska Clean Indoor Air Act  
1 shall not be eligible to receive any funds distributed pursuant to

2 section 77-2602."

3 3. On page 5, line 12, strike "shall" and show as  
4 stricken and after the last stricken comma insert "may".

5 4. On page 6, line 1, strike "and" and after the last  
6 comma insert "71-5712, and 77-2602,"; and in line 2 strike "and  
7 71-5707" and insert ", 71-5707, 81-3603, and 81-3606".

8 5. Renumber the remaining section accordingly.

Senator Beutler filed the following amendment to LB 117:  
AM1181

(Amendments to Standing Committee amendments, AM0712)

1 1. On page 17, line 20, before the semicolon insert "and  
2 sign a log book. The person selling the drug product shall record  
3 the person's name, address, and date of birth, the date of  
4 purchase, and the amount of drug product purchased. The log book  
5 shall be maintained for two years after the last sale logged in the  
6 book. The log book shall be open to law enforcement agencies and  
7 may be viewed by law enforcement officers involved in drug  
8 enforcement".

Senator Beutler filed the following amendment to LB 709:  
AM1191

(Amendments to E & R amendments, AM7080)

1 1. On page 1, line 14, strike "has" and insert "may".  
2 2. On page 4, line 2, after the period insert "The  
3 council shall review the plan and issue its recommendations to the  
4 Governor and the Legislature no later than December 14, 2005."

## VISITORS

Visitors to the Chamber were 31 fourth-grade students and teachers from Washington Elementary School, Norfolk; 11 members of the Columbus Junior City Council; Alexandra Brandt from Sweden; 8 twelfth-grade students and teacher from Sterling High School; 26 fourth-grade students, teacher, and para-educator from Seymour Elementary School, Ralston; 37 students, sponsors, and teacher from Tri County High School; 6 members of Hartington Leadership Group; 40 fourth-grade students and teachers from Ft. Calhoun; Mike Brunner from Gering; Pete Kortum from Grand Island; 35 high school students and teacher from Ralston High School, Omaha; and Talia Head from Omaha.

## RECESS

At 11:54 a.m., on a motion by Senator Baker, the Legislature recessed until 1:30 p.m.

## AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Burling, Landis, and Dw. Pedersen who were excused; and Senators Byars, Combs, Heidemann, Price, and Thompson who were excused until they arrive.

**GENERAL FILE**

**LEGISLATIVE BILL 673.** The Standing Committee amendment, AM0867, printed separately and referred to on page 931 and considered on page 1175, was renewed.

Senator Chambers renewed his pending amendment, FA159, found on page 1177, to the Standing Committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 2:

Chambers	Howard
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Voting in the negative, 11:

Engel	Friend	Louden	Smith
Erdman	Heidemann	Raikes	Wehrbein
Flood	Janssen	Schimek	

Present and not voting, 28:

Aguilar	Connealy	Jensen	Pahls	Stuhr
Baker	Cornett	Johnson	Pederson, D.	Stuthman
Beutler	Cudaback	Kopplin	Preister	Synowiecki
Bourne	Cunningham	Kremer	Price	Thompson
Brown	Fischer	Kruse	Redfield	
Combs	Hudkins	McDonald	Schrock	

Excused and not voting, 8:

Brashear	Byars	Landis	Mines
Burling	Foley	Langemeier	Pedersen, Dw.

The Chambers amendment lost with 2 ayes, 11 nays, 28 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, FA160, found on page 1177, to the Standing Committee amendment.

Pending.

## **STANDING COMMITTEE REPORTS**

### **Judiciary**

**LEGISLATIVE BILL 507.** Placed on General File.

**LEGISLATIVE BILL 116.** Placed on General File as amended.  
(Standing Committee amendment, AM1130, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 123.** Placed on General File as amended.  
Standing Committee amendment to LB 123:  
AM1200

- 1 1. On page 9, lines 20 through 28; and page 10, lines 1
- 2 and 2, strike the new matter.
- 3 2. On page 10, line 16, reinstate the stricken matter
- 4 and after "employment" insert "or volunteer"; and in line 17 strike
- 5 the new matter.
- 6 3. On page 12, line 16, after the second comma insert
- 7 "health care facilities providing services to children or
- 8 vulnerable adults,".

**LEGISLATIVE BILL 322.** Placed on General File as amended.  
(Standing Committee amendment, AM1131, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 444.** Placed on General File as amended.  
Standing Committee amendment to LB 444:  
AM0956

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 43-3342.03, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 43-3342.03. (1) All support orders shall direct payment
- 6 of support as provided in section 42-369. Any support order issued
- 7 prior to the date that the State Disbursement Unit becomes
- 8 operative for which the payment is to be made to the clerk of the
- 9 district court shall be deemed to require payment to the State
- 10 Disbursement Unit after a notice to the obligor is issued.
- 11 (2) The unit may collect a fee equal to the actual cost
- 12 of processing any ~~payment made with insufficient funds. After~~
- 13 payments for returned check charges or charges for electronic
- 14 payments not accepted. After a payor has originated two payments
- 15 ~~made with insufficient funds~~ resulting in returned check charges or

16 charges for electronic payments not accepted within a period of one  
17 year, the unit ~~shall~~ may issue a notice to the originator that, for  
18 the following year, any payment shall be required to be paid by  
19 cash, guaranteed funds, or wire funds transfer money order,  
20 cashier's check, or certified check. After a payor has originated  
21 three payments ~~made with insufficient funds~~ resulting in returned  
22 check charges or electronic payments not accepted, the unit ~~shall~~  
23 may issue a notice to the originator that all future payments shall  
24 be paid by ~~cash, guaranteed funds, or wire funds transfer money~~  
1 order, cashier's check, or certified check, except that pursuant to  
2 rule and regulation and at least two years after such issuance of  
3 notice, the unit may waive for good cause shown such requirements  
4 for methods of payment.  
5 Sec. 2. Original section 43-3342.03, Reissue Revised  
6 Statutes of Nebraska, is repealed."

**LEGISLATIVE BILL 535.** Placed on General File as amended.  
Standing Committee amendment to LB 535:  
AM0983

1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 28-323, Revised Statutes Supplement,  
4 2004, is amended to read:  
5 28-323. (1) A person commits the offense of domestic  
6 assault in the third degree if he or she:  
7 (a) Intentionally and knowingly causes bodily injury to  
8 his or her intimate partner; or  
9 (b) Places, by physical or verbal menace, his or her  
10 intimate partner in fear of imminent bodily injury.  
11 (2) A person commits the offense of domestic assault in  
12 the second degree if he or she intentionally and knowingly causes  
13 bodily injury to his or her intimate partner with a dangerous  
14 instrument.  
15 (3) A person commits the offense of domestic assault in  
16 the first degree if he or she intentionally and knowingly causes  
17 serious bodily injury to his or her intimate partner.  
18 (4) Violation of subsection (1) of this section is a  
19 Class I misdemeanor, except that for any second or subsequent  
20 violation of such subsection within twelve years after the date of  
21 the current conviction, any person so offending against the same  
22 intimate partner is guilty of a Class IV felony.  
23 (5) Violation of subsection (2) of this section is a  
24 Class IIIA felony, except that for any second or subsequent  
1 violation of such subsection within twelve years after the date of  
2 the current conviction, any person so offending against the same  
3 intimate partner is guilty of a Class III felony.  
4 (6) Violation of subsection (3) of this section is a  
5 Class III felony, except that for any second or subsequent  
6 violation under such subsection within twelve years after the date

7 of the current conviction, any person so offending against the same intimate partner is guilty of a Class II felony.

9 (7) For purposes of this section, (a) intimate partner means a spouse; a former spouse; persons who have a child in common whether or not they have been married or lived together at any time; and persons who are or were involved in a dating relationship, and (b) - ~~For purposes of this subsection, dating~~ relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context.

19 (8) When a court dismisses a charge filed under this section or a prosecutor moves to dismiss a charge filed under this section, the reasons for the dismissal shall be recorded in the court record.

23 Sec. 2. Original section 28-323, Revised Statutes Supplement, 2004, is repealed."

**LEGISLATIVE BILL 572.** Placed on General File as amended.

Standing Committee amendment to LB 572:

AM1124

- 1 1. On page 2, line 28, after the comma insert "the Public Counsel or his or her designee,".
- 3 2. On page 3, line 11, strike "June 15" and insert "August 1"; and in line 19 strike "March 1" and insert "December 15".
- 6 3. On page 4, line 2, strike "March 1" and insert "December 15".

**LEGISLATIVE BILL 633.** Placed on General File as amended.

Standing Committee amendment to LB 633:

AM1199

- 1 1. Strike original sections 1 and 13.
- 2 2. On page 4, lines 22 and 23, strike "6, 10, and 13" and insert "5 and 9".
- 4 3. On page 6, lines 23 and 24 and 27 and 28; and page 7, lines 3 and 4, strike "or any third person acting under the respondent's direction".
- 7 4. On page 7, lines 5 through 7, strike the new matter; and strike beginning with "minimum" in line 11 through "distance" in line 12 and insert "specified distance as"; and in line 23 strike "includes a requirement that" and insert "prohibits" and strike "refrain".
- 12 5. On page 8, line 1, after "with" insert "aiding and abetting"; in line 2 after "order" insert "unless the court finds that the petitioner invited the respondent to the residence or other specified place that the respondent was prohibited from entering with the intent to have the respondent arrested for

17 violation of a protection order"; in lines 14 and 15 strike the new  
18 matter; and strike lines 27 and 28.

19 6. Strike pages 9 and 10.

20 7. On page 11, strike lines 1 through 25; and in line 26  
21 strike "(10)" and insert "(5)".

22 8. On page 12, line 1, strike "(11)" and insert "(6)";  
23 and in line 4 strike "(12)" and insert "(7)".

24 9. On page 16, line 13, strike "(1)"; and strike lines  
1 23 through 28.

2 10. On page 17, strike line 1.

3 11. Renumber the remaining sections and correct the  
4 repealer accordingly.

**LEGISLATIVE BILL 677.** Placed on General File as amended.

(Standing Committee amendment, AM1115, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 713.** Placed on General File as amended.

(Standing Committee amendment, AM1108, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Patrick J. Bourne, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 673.** The Chambers pending amendment, FA160, found on page 1177 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

Senator Chambers moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

The Chambers amendment lost with 2 ayes, 21 nays, 16 present and not voting, and 10 excused and not voting.

Senator Chambers renewed his pending amendment, FA162, found on page 1177, to the Standing Committee amendment.

### SENATOR STUHR PRESIDING

### SENATOR CUDABACK PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 3:

Chambers      Howard      Schimek

Voting in the negative, 24:

Baker	Fischer	Kremer	Pahls	Stuhr
Connealy	Flood	Kruse	Pederson, D.	Stuthman
Cunningham	Heidemann	Louden	Raikes	Synowiecki
Engel	Hudkins	McDonald	Schrock	Wehrbein
Erdman	Kopplin	Mines	Smith	

Present and not voting, 13:

Beutler	Brown	Cudaback	Preister	Thompson
Bourne	Combs	Jensen	Price	
Brashear	Cornett	Johnson	Redfield	

Excused and not voting, 9:

Aguilar	Byars	Friend	Landis	Pedersen, Dw.
Burling	Foley	Janssen	Langemeier	

The Chambers amendment lost with 3 ayes, 24 nays, 13 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, FA163, found on page 1177, to the Standing Committee amendment.

Pending.

### **AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 40:  
AM1204

- 1 1. On page 3, strike beginning with the first comma in
- 2 line 13 through line 18, show as stricken, and insert an
- 3 underscored period.

Senator Chambers filed the following amendment to LB 673:  
FA164

Amend AM0867

On page 1, strike lines 7-9.

Senator Chambers filed the following amendment to LB 673:  
FA165

Amend AM0867

On page 1, strike lines 10-11.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review****Correctly Reengrossed**

The following bill was correctly reengrossed: LB 503.

**Correctly Engrossed**

The following bills were correctly engrossed: LBs 161, 361, 382, 401, 551, and 739.

ER9028

**Enrollment and Review Change to LB 161**

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Dw. Pedersen amendment, AM1165, section 8 has been renumbered as section 12.

2. In the Price et al. amendment, AM1162, section 1 has been renumbered as section 2.

3. In the Jensen amendment, AM1044:

a. On page 1, line 8, the comma has been struck and shown as stricken; and

b. On page 4, the new matter in lines 2 and 3 has been moved to line 8, after the comma.

4. In the E & R amendments, AM7072, on page 11, the matter beginning with "sections" in line 21 through "19-2405" in line 22 and all amendments thereto have been struck and "sections 14-405, 15-201, 16-669, 16-670, 17-522, 19-905, 19-2404, 19-2405, 23-165, and 74-1307" inserted.

5. On page 1, the matter beginning with "municipalities" in line 1 through line 4 and all amendments thereto have been struck and "political subdivisions; to amend sections 14-405, 15-201, 16-669, 16-670, 17-522, 19-905, 19-2404, 19-2405, 23-165, and 74-1307, Reissue Revised Statutes of Nebraska, and sections 16-611 and 17-558, Revised Statutes Supplement, 2004; to change provisions relating to zoning, the vacation of streets and alleys, sewer and water improvements, and sidewalk construction and maintenance; to provide powers relating to trees; to provide for special assessment districts; to change provisions relating to bond issuance by railroad transportation safety districts; to harmonize provisions; and to repeal the original sections." inserted.

ER9031

**Enrollment and Review Change to LB 361**

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E & R amendments, AM7070, on page 40, line 17, "with" has been struck and "within" inserted.

ER9025

Enrollment and Review Change to LB 382

The following changes, required to be reported for publication in the Journal, have been made:

1. The Stuhr amendment, AM0816, as amended by the Stuhr amendment, FA154, has been incorporated into the Standing Committee amendments, AM0702.

2. In the Stuhr amendment, AM0816, on page 6, the matter beginning with the semicolon in line 16 through the last quotation mark in line 17 has been struck.

3. In the Byars amendment, AM0951, on page 1, line 19, "13 and 15" has been struck and "15 and 17" inserted.

4. In the Standing Committee amendments, AM0702:

a. On page 58, line 14, "signature" has been inserted after "electronic"; and

b. On page 66, line 24, "effective date of this act" has been struck and "operative date of this section" inserted.

5. On page 1, the matter beginning with "drugs" in line 1 through line 10 and all amendments thereto have been struck and "public health and welfare; to amend sections 71-168, 71-1,146.01, 71-1,147.35, 71-374, 71-375, 71-5402, 71-5403, and 71-5404, Reissue Revised Statutes of Nebraska, sections 28-401, 28-405, 28-414, 28-1437, and 71-1,142, Revised Statutes Supplement, 2004, and section 2, Legislative Bill 306, Ninety-ninth Legislature, First Session, 2005; to provide for electronic transmission of prescriptions; to define, redefine, and eliminate terms; to change provisions relating to controlled substances, dispensing, compounding, and destroying certain drugs, and drug product selection; to provide an exception to mandatory reporting requirements for pharmacist interns; to change provisions relating to the Board of Cosmetology; to provide for relabeling and redispensing of certain prescription drugs and devices; to change provisions relating to criminal background checks required of certain professionals; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency." inserted.

ER9026

Enrollment and Review Change to LB 401

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Schimek amendment, FA155, an underscored comma has been inserted after "falsification".

2. In the Beutler amendment, AM1145, section 5 has been renumbered as section 6.

3. In the E & R amendments, AM7073, on page 1, line 11, "31-735," has been inserted after "sections"; and in line 12 "to change provisions relating to the election of the board of trustees of sanitary and improvement districts;" has been inserted after the semicolon.

ER9029

Enrollment and Review Change to LB 551

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Jensen amendment, AM1113, on page 1, line 9, the second "of" has been struck and "or" inserted.

2. In the Standing Committee amendments, AM0695, on page 10, the matter beginning with "71-810" in line 1 through the second comma in line 2 and all amendments thereto have been struck and "71-1,356, 71-1,358, 71-810, 71-813, 71-815 to 71-818, and 71-922," inserted.

3. On page 1, the matter beginning with "the" in line 1 through line 5 and all amendments thereto have been struck and "public health and welfare; to amend sections 71-1,356, 71-1,358, 71-810, 71-813, 71-815 to 71-818, and 71-922, Revised Statutes Supplement, 2004; to change training requirements relating to alcohol and drug counselor training supervisors; to establish a data and information system; to provide duties for the Division of Behavioral Health Services; to change provisions relating to membership on a council, on advisory committees, and on a commission; to change provisions relating to the Compulsive Gamblers Assistance Fund; to change provisions relating to mental health board proceedings; to provide an operative date; to repeal the original sections; and to declare an emergency." inserted.

ER9024

Enrollment and Review Change to LB 739

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Beutler amendment, AM1159, on page 1, line 9, an underscored comma has been inserted after "amount".

2. The Cunningham amendment, AM1148, has been incorporated into the E & R amendments, AM7071.

3. In the E & R amendments, AM7071, on page 50, line 21, "0.30 percent and below" has been struck and "Below 0.30 percent" inserted.

(Signed) Michael Flood, Chairperson

**VISITORS**

Visitors to the Chamber were 12 Japanese students and teacher from College of St. Mary's, Omaha; 37 fourth-grade students and teachers from Stoddard

Elementary School, Beatrice; and Jim Lawson from Gering.

The Doctor of the Day was Dr. Gilbert Head from Omaha.

**MOTION - Adjournment**

Senator Stuhr moved to adjourn until 9:00 a.m., Thursday, April 14, 2005.

Senator Chambers requested a roll call vote on the motion to adjourn.

The Stuhr motion to adjourn prevailed with 24 ayes, 6 nays, 10 present and not voting, and 9 excused and not voting, and at 4:00 p.m., the Legislature adjourned until 9:00 a.m., Thursday, April 14, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**SIXTY-SECOND DAY - APRIL 14, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SIXTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, April 14, 2005

**PRAYER**

The prayer was offered by Pastor Evie Johnson, United Methodist Churches of Tecumseh and Sterling.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Bourne, Brashear, Burling, Byars, Erdman, Hudkins, Dw. Pedersen, and Preister who were excused; and Senators Brown, Landis, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-first day was approved.

**REPORTS**

The following reports were received by the Legislature:

**Health and Human Services System**

Office of the System Advocate Quarterly Report, January-March 2005

**Investment Council**

2004 Annual Report

**Public Counsel/Ombudsman**

Thirty-third Annual Report

**Roads, Department of**

Board of Public Roads Classifications and Standards Minutes for February 2005

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of April 13, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Kohler, Mike  
Cox Nebraska Telcom, LLC (Withdrawn 04/12/2005)

Lightner, James  
Public Employees, AFSCME Local 61, Nebraska Association of  
(Withdrawn 04/13/2005)

Smith, Milford L.  
Smith Consulting Service (Withdrawn 04/12/2005)

Smith, Milford L.  
Education Equity and Adequacy, Nebraska Coalition of

**MOTION - Approve Appointment**

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 1172:

Coordinating Commission for Postsecondary Education  
Joyce Simmons

Voting in the affirmative, 30:

Aguilar	Cudaback	Howard	Louden	Raikes
Baker	Cunningham	Janssen	McDonald	Schimek
Chambers	Engel	Johnson	Mines	Stuhr
Combs	Fischer	Kopplin	Pahls	Stuthman
Connealy	Flood	Kremer	Pederson, D.	Synowiecki
Cornett	Heidemann	Langemeier	Price	Wehrbein

Voting in the negative, 0.

Present and not voting, 7:

Beutler	Jensen	Redfield	Smith
Foley	Kruse	Schrock	

Excused and not voting, 12:

Bourne	Burling	Friend	Pedersen, Dw.
Brashear	Byars	Hudkins	Preister
Brown	Erdman	Landis	Thompson

The appointment was confirmed with 30 ayes, 0 nays, 7 present and not voting, and 12 excused and not voting.

### GENERAL FILE

**LEGISLATIVE BILL 673.** Senator Chambers renewed his pending amendment, FA163, found on page 1177 and considered on page 1195, to the Standing Committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 10 ayes, 0 nays, and 39 not voting.

The Chambers amendment lost with 1 aye, 19 nays, 16 present and not voting, and 13 excused and not voting.

The Chair declared the call raised.

Pending.

### AMENDMENT - Print in Journal

Senator Chambers filed the following amendment to LB 548:  
AM1205

(Amendments to E & R amendments, AM7085)

- 1 1. On page 4, strike lines 25 and 26, and insert the
- 2 following new subsection:
- 3 "(5) The University of Nebraska and postsecondary
- 4 educational institutions having colleges of medicine in Nebraska
- 5 and their affiliated research hospitals in Nebraska, as a condition
- 6 of receiving any funds appropriated or transferred from the
- 7 Nebraska Health Care Cash Fund, shall not discriminate against any
- 8 person on the basis of sexual orientation.".

### RESOLUTION

**LEGISLATIVE RESOLUTION 77.** Introduced by Mines, 18.

WHEREAS, for more than a century, independent community banks in Nebraska have served as the heartbeat of their community and have established a tradition of true community involvement, continually reinvesting deposits in the communities they serve in the form of commercial, agricultural, real estate, and consumer loans; and

WHEREAS, independent community banks play a significant role in local economic development efforts, stimulating the economy to produce jobs and new opportunities and as a group provide an important and strong part of the

state's economic fabric; and

WHEREAS, personal service, trust, and outstanding product offerings are the specialties of independent community banks in their customer relationships, making independent community banks effective in a continually changing financial service marketplace; and

WHEREAS, the tradition of independent community banking in Nebraska is one of hometown people coming together to help their towns grow and of neighbors helping neighbors and friends succeed; and

WHEREAS, Nebraska independent community banks are strong economic supporters of the state; and

WHEREAS, it is important to create a greater public awareness and understanding of the vital role independent community banks have played in the economy of our state and the vital role they will play in our future.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature designates April as Community Banking Month.

Laid over.

## GENERAL FILE

**LEGISLATIVE BILL 673.** Senator Chambers offered the following motion:

Reconsider the vote taken on FA163.

The Chambers motion to reconsider failed with 3 ayes, 9 nays, 21 present and not voting, and 16 excused and not voting.

Senator Chambers renewed his pending amendment, FA164, found on page 1195, to the Standing Committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 9 ayes, 0 nays, and 40 not voting.

The Chambers amendment lost with 1 aye, 15 nays, 19 present and not voting, and 14 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:

Reconsider the vote just taken on FA164.

## SENATOR ENGEL PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 10 ayes, 0 nays, and 39 not voting.

The Chambers motion to reconsider failed with 3 ayes, 20 nays, 10 present and not voting, and 16 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, FA165, found on page 1195, to the Standing Committee amendment.

Pending.

### **AMENDMENT - Print in Journal**

Senator Chambers filed the following amendment to LB 673:

FA166

Amend AM0867

On page 3 after line 6 insert "(6) Eradication shall be a last resort as a management option."

### **VISITORS**

Visitors to the Chamber were 12 fourth-grade students and teacher from St. Josephs Elementary School, York; 40 fourth-grade students and teachers from Washington Elementary School, Omaha; 21 fourth-grade students and teachers from Arapahoe; and 9 seventh- and eighth-grade students from Golden Plains Christians School, Madrid.

The Doctor of the Day was Dr. Lisa Rauner from Lincoln.

### **MOTION - Adjournment**

Senator Flood moved to adjourn. The motion prevailed with 10 ayes, 4 nays, 17 present and not voting, and 18 excused and not voting, and at 12:01 p.m., the Legislature adjourned until 10:00 a.m., Tuesday, April 19, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**SIXTY-THIRD DAY - APRIL 19, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SIXTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, April 19, 2005

**PRAYER**

The prayer was offered by Pastor Bob Larson, St. Paul and Elim Lutheran Churches, Hooper.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Bourne who was excused; and Senators Combs, Engel, Landis, Mines, D. Pederson, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-second day was approved.

**STANDING COMMITTEE REPORTS  
Nebraska Retirement Systems**

**LEGISLATIVE BILL 364.** Placed on General File as amended.  
(Standing Committee amendment, AM1210, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Elaine Stuhr, Chairperson

**Business and Labor**

**LEGISLATIVE BILL 749.** Placed on General File as amended.  
Standing Committee amendment to LB 749:  
AM1222

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 48-310, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 48-310. (1) No person under ~~the age of~~ sixteen years of

6 age shall be employed or ~~suffered~~ permitted to work in any  
7 employment as defined in section 48-301 more than forty-eight hours  
8 in any one week, nor more than eight hours in any one day, nor  
9 before the hour of 6 in the morning, nor after the hour of 8 in the  
10 evening if the child is under the age of fourteen, nor after the  
11 hour of 10 in the evening if such child is between the ages of  
12 fourteen and sixteen. The person issuing the work certificate may  
13 limit or extend the stated hour in individual cases by endorsement  
14 on the certificate, except a child shall only be permitted to work  
15 after the hour of 10 p.m. if there is no school scheduled for the  
16 following day and, if he or she is between fourteen and sixteen  
17 years of age, he or she has consented to such extension by signing  
18 his or her name on the endorsement extension, and his or her  
19 employer has obtained a special permit from the Department of  
20 Labor. The Department of Labor may issue a special permit to allow  
21 employment of such child beyond 10 p.m. upon being satisfied, after  
22 inspection of the working conditions, ~~of and~~ the safety,  
23 healthfulness, and general welfare to the child of the business  
24 premises. The special permit may be issued for periods not to  
1 exceed ninety days and may be renewed only after reinspection. The  
2 fee for each permit or renewal shall be established by rule and  
3 regulation of the Commissioner of Labor, and all money so collected  
4 by the commissioner shall be remitted to the State Treasurer who  
5 shall credit the funds to the General Fund. Every employer shall  
6 post in a conspicuous place in every room where such children are  
7 employed a printed notice stating the hours required of them each  
8 day, the hours of commencing and stopping work, and the time  
9 allowed for meals. The printed form of such notice shall be  
10 furnished by the Department of Labor.

11 (2) Except as provided in subsections (3) and (4) of this  
12 section, no person under sixteen years of age shall be employed or  
13 permitted to work as a door-to-door solicitor.

14 (3) A person under sixteen years of age engaged in the  
15 delivery or distribution of newspapers or shopping news may be  
16 employed or permitted to work as a door-to-door solicitor of  
17 existing customers of such newspapers or shopping news.

18 (4) A person under sixteen years of age is permitted to  
19 work as a door-to-door solicitor if he or she is working on behalf  
20 of his or her own individual entrepreneurial endeavor.

21 Sec. 2. Original section 48-310, Reissue Revised  
22 Statutes of Nebraska, is repealed."

(Signed) Douglas Cunningham, Chairperson

## RESOLUTION

**LEGISLATIVE RESOLUTION 78.** Introduced by Fischer, 43.

WHEREAS, the Stuart Public School Speech Team won first place in

Class D-2 at the Nebraska State Speech Tournament held in Lincoln, Nebraska, on March 17th and 18th, 2005; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Stuart Public School Speech Team be congratulated for its success.

2. That a copy of this resolution be sent to the Stuart Public School Speech Team and Coach Brenda Larabee.

Laid over.

## GENERAL FILE

**LEGISLATIVE BILL 70.** Title read. Considered.

Senator Smith renewed his pending amendment, AM0051, found on page 697.

Pending.

## AMENDMENTS - Print in Journal

Senators Redfield, Jensen, and Synowiecki filed the following amendment to **LB 40**:  
AM1227

(Amendments to Standing Committee amendments, AM0387)

- 1 1. Strike amendments 1 and 2 and all amendments thereto
- 2 and insert the following new amendment:
- 3 "1. Strike the original sections and insert the
- 4 following new sections:
- 5 'Section 1. Section 58-703, Reissue Revised Statutes of
- 6 Nebraska, is amended to read:
- 7 58-703. The Affordable Housing Trust Fund is created.
- 8 The fund shall receive money pursuant to sections 8-1120 and 76-903
- 9 and may include revenue from sources recommended by the housing
- 10 advisory committee established in section 58-704, appropriations
- 11 from the Legislature, grants, private contributions, repayment of
- 12 loans, and all other sources, except that before appropriations
- 13 from the General Fund may be used as a revenue source for the
- 14 Affordable Housing Trust Fund or for administrative costs of the
- 15 Department of Economic Development in administering the fund, such
- 16 use must be specifically authorized by a separate legislative bill
- 17 passed in a legislative session subsequent to the Ninety-fourth
- 18 Legislature, Second Session, 1996. Any initial appropriation from
- 19 the General Fund which is used as a revenue source for the
- 20 Affordable Housing Trust Fund or for administrative costs shall be
- 21 in an appropriations bill which does not contain appropriations for

22 other programs. The department as part of its comprehensive  
23 housing affordability strategy shall administer the Affordable  
1 Housing Trust Fund.

2 Transfers may be made from the Affordable Housing Trust  
3 Fund to the General Fund and the Behavioral Health Services Fund at  
4 the direction of the Legislature. The State Treasurer shall make  
5 transfers from the Affordable Housing Trust Fund to the General  
6 Fund according to the following schedule: (1) ~~\$1,500,000 on or~~  
7 ~~after July 1, 2004, but no later than July 10, 2004;~~ (2) \$1,500,000  
8 on or after July 1, 2005, but no later than July 10, 2005; and ~~(3)~~  
9 (2) \$1,500,000 on or after July 1, 2006, but no later than July 10,  
10 2006. The State Treasurer shall transfer \$2,000,000 from the  
11 Affordable Housing Trust Fund to the Behavioral Health Services  
12 Fund on or after July 1, 2005, but not later than July 10, 2005.

13 Sec. 2. Section 58-706, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 58-706. The following activities are eligible for  
16 assistance from the Affordable Housing Trust Fund:

17 (1) New construction, rehabilitation, or acquisition of  
18 housing to assist low-income and very low-income families;

19 (2) Matching funds for new construction, rehabilitation,  
20 or acquisition of housing units to assist low-income and very  
21 low-income families;

22 (3) Technical assistance, design and finance services,  
23 and consultation for eligible nonprofit community or  
24 neighborhood-based organizations involved in the creation of  
25 affordable housing;

26 (4) Matching funds for operating costs for housing  
27 assistance groups or organizations when such grant or loan will  
1 substantially increase the recipient's ability to produce  
2 affordable housing;

3 (5) Mortgage insurance guarantees for eligible projects;

4 (6) Acquisition of housing units for the purpose of  
5 preservation of housing to assist low-income or very low-income  
6 families;

7 (7) Projects making affordable housing more accessible to  
8 families with elderly members or members who have disabilities;

9 (8) Projects providing housing in areas determined by the  
10 Department of Economic Development to be of critical importance for  
11 the continued economic development and economic well-being of the  
12 community and where, as determined by the department, a shortage of  
13 affordable housing exists;

14 (9) Infrastructure projects necessary for the development  
15 of affordable housing;

16 (10) Downpayment and closing cost assistance; and

17 (11) Housing education programs developed in conjunction  
18 with affordable housing projects. The education programs must be  
19 directed toward:

20 (a) Preparing potential home buyers to purchase

21 affordable housing and postpurchase education;  
22 (b) Target audiences eligible to utilize the services of  
23 housing assistance groups or organizations; and  
24 (c) Developers interested in the rehabilitation,  
25 acquisition, or construction of affordable housing. ~~and~~  
26 ~~(12) Rental assistance for adults with serious mental~~  
27 ~~illness.~~

1 Sec. 3. Section 71-812, Revised Statutes Supplement,  
2 2004, is amended to read:  
3 71-812. (1) The Behavioral Health Services Fund is  
4 created. The fund shall be administered by the division and shall  
5 contain cash funds appropriated by the Legislature or otherwise  
6 received by the Nebraska Health and Human Services System for the  
7 provision of behavioral health services from any other public or  
8 private source and directed by the Policy Cabinet or the  
9 Legislature for credit to the fund.

10 (2) The fund shall be used to encourage and facilitate  
11 the statewide development and provision of community-based  
12 behavioral health services, including, but not limited to, (a) the  
13 provision of grants, loans, and other assistance for such purpose  
14 and (b) reimbursement to providers of such services.  
15 ~~(3) (3)(a) Money transferred to the fund under section~~  
16 ~~76-903 shall be used for housing-related assistance for very~~  
17 ~~low-income adults with serious mental illness, except that if the~~  
18 ~~division determines that all housing-related assistance obligations~~  
19 ~~under this subsection have been fully satisfied, the division may~~  
20 ~~distribute any excess, up to twenty percent of such money, to~~  
21 ~~regional behavioral health authorities for acquisition or~~  
22 ~~rehabilitation of housing to assist such persons. The division~~  
23 ~~shall manage and distribute such funds based upon a formula~~  
24 ~~established by the division, in consultation with regional~~  
25 ~~behavioral health authorities and the Department of Health and~~  
26 ~~Human Services Finance and Support, in a manner consistent with and~~  
27 ~~reasonably calculated to promote the purposes of the public~~  
1 behavioral health system enumerated in section 71-803. The  
2 division shall contract with each regional behavioral health  
3 authority for the provision of such assistance. Each regional  
4 behavioral health authority may contract with qualifying public,  
5 private, or nonprofit entities for the provision of such  
6 assistance.

7 (b) For purposes of this subsection:

8 (i) Adult with serious mental illness means a person  
9 eighteen years of age or older who has, or at any time during the  
10 immediately preceding twelve months has had, a diagnosable mental,  
11 behavioral, or emotional disorder of sufficient duration to meet  
12 diagnostic criteria identified in the most recent edition of the  
13 Diagnostic and Statistical Manual of Mental Disorders and which has  
14 resulted in functional impairment that substantially interferes  
15 with or limits one or more major life functions. Serious mental

16 illness does not include DSM V codes, substance abuse disorders, or  
17 development disabilities unless such conditions exist concurrently  
18 with a diagnosable serious mental illness;

19 (ii) Housing-related assistance includes rental payments,  
20 utility payments, security and utility deposits, and other related  
21 costs and payments; and

22 (iii) Very low-income means a household income of fifty  
23 percent or less of the applicable median family income estimate as  
24 established by the United States Department of Housing and Urban  
25 Development.

26 (4) Any money in the fund available for investment shall  
27 be invested by the state investment officer pursuant to the  
1 Nebraska Capital Expansion Act and the Nebraska State Funds  
2 Investment Act.

3 Sec. 4. Section 76-901, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 76-901. There is hereby imposed a tax on the grantor  
6 executing the deed as defined in section 76-203 upon the privilege  
7 of transferring beneficial interest in or legal title to real  
8 estate at the rate of ~~one dollar~~ two dollars and ~~seventy-five~~  
9 ~~twenty-five~~ cents for each one thousand dollars value or fraction  
10 thereof. For purposes of sections 76-901 to 76-908, value ~~shall~~  
11 ~~mean~~ means (1) in the case of any deed, not a gift, the amount of  
12 the full actual consideration thereof, paid or to be paid,  
13 including the amount of any lien or liens assumed, and (2) in the  
14 case of a gift or any deed with nominal consideration or without  
15 stated consideration, the current market value of the property  
16 transferred. Such tax shall be evidenced by stamps to be attached  
17 to the deed. All deeds purporting to transfer legal title or  
18 beneficial interest shall be presumed taxable unless it clearly  
19 appears on the face of the deed or sufficient documentary proof is  
20 presented to the register of deeds that the instrument is exempt  
21 under section 76-902.

22 Sec. 5. Section 76-903, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 76-903. The Tax Commissioner shall design such stamps in  
25 such denominations as in his or her judgment will be the most  
26 advantageous to all persons concerned. When any deed subject to  
27 the tax imposed by section 76-901 is offered for recordation, the  
1 register of deeds shall ascertain and compute the amount of the tax  
2 due thereon and shall collect such amount as a prerequisite to  
3 acceptance of the deed for recordation. If a dispute arises  
4 concerning the taxability of the transfer, the register of deeds  
5 shall not record the deed until the disputed tax is paid. If a  
6 disputed tax has been paid, the taxpayer may file for a refund  
7 pursuant to section 76-908. The taxpayer may also seek a  
8 declaratory ruling pursuant to rules and regulations adopted and  
9 promulgated by the Department of Revenue. From each ~~one dollar~~ two  
10 ~~dollars~~ and ~~seventy-five~~ twenty-five cents of tax collected

11 pursuant to section 76-901, the register of deeds shall retain  
12 fifty cents to be placed in the county general fund and shall remit  
13 the balance to the State Treasurer who shall credit one dollar and  
14 twenty cents of such amount to the Affordable Housing Trust Fund,  
15 and twenty-five cents of such amount to the Homeless Shelter  
16 Assistance Trust Fund, except that beginning January 1, 2002, and  
17 ending December 31, 2003, the State Treasurer shall credit the  
18 balance as follows: Fifty cents of such amount to the Affordable  
19 Housing Trust Fund; twenty-five cents of such amount to the  
20 Homeless Shelter Assistance Trust Fund; and fifty cents of such  
21 amount to the General Fund and thirty cents of such amount to the  
22 Behavioral Health Services Fund.

23 Sec. 6. Section 77-1327, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 77-1327. (1) It is the intent of the Legislature that  
26 accurate and comprehensive information be developed by the Property  
27 Tax Administrator and made accessible to the taxing officials and  
1 property owners in order to ensure the uniformity and  
2 proportionality of the assessments of real property valuations in  
3 the state in accordance with law and to provide the statistical and  
4 narrative reports pursuant to section 77-5027.

5 (2) All transactions of real property for which the  
6 statement required in section 76-214 is filed shall be available  
7 for development of a sales file by the Property Tax Administrator.  
8 All transactions with stated consideration of more than one hundred  
9 dollars or upon which more than ~~one dollar~~ two dollars and  
10 ~~seventy-five~~ twenty-five cents in documentary stamp taxes are paid  
11 shall be considered sales. All sales shall be deemed to be arm's  
12 length transactions unless determined to be otherwise under  
13 professionally accepted mass appraisal techniques. The Department  
14 of Property Assessment and Taxation shall not overturn a  
15 determination made by a county assessor regarding the qualification  
16 of a sale unless the department reviews the sale and determines  
17 through the review that the determination made by the county  
18 assessor is incorrect.

19 (3) The Property Tax Administrator annually shall make  
20 and issue comprehensive assessment ratio studies of the average  
21 level of assessment, the degree of assessment uniformity, and the  
22 overall compliance with assessment requirements for each major  
23 class of real property subject to the property tax in each county.  
24 The comprehensive assessment ratio studies shall be developed in  
25 compliance with professionally accepted mass appraisal techniques  
26 and shall employ such statistical analysis as deemed appropriate by  
27 the Property Tax Administrator, including measures of central  
1 tendency and dispersion. The comprehensive assessment ratio  
2 studies shall be based upon the sales file as developed in  
3 subsection (2) of this section and shall be used by the Property  
4 Tax Administrator for the analysis of the level of value and  
5 quality of assessment for purposes of section 77-5027 and by the

6 Property Tax Administrator in establishing the adjusted valuations  
7 required by section 79-1016. Such studies may also be used by  
8 assessing officials in establishing assessed valuations.  
9 (4) For purposes of determining the level of value of  
10 agricultural and horticultural land subject to special valuation  
11 under sections 77-1343 to 77-1348, the Property Tax Administrator  
12 shall annually make and issue a comprehensive study developed in  
13 compliance with professionally accepted mass appraisal techniques  
14 to establish the level of value if in his or her opinion the level  
15 of value cannot be developed through the use of the comprehensive  
16 assessment ratio studies developed in subsection (3) of this  
17 section.  
18 (5) The Property Tax Administrator may require assessors  
19 and other taxing officials to report data on the assessed valuation  
20 and other features of the property assessment for such periods and  
21 in such form and content as the Property Tax Administrator shall  
22 deem appropriate. The Property Tax Administrator shall so  
23 construct and maintain the system used to collect and analyze the  
24 data to enable him or her to make intracounty comparisons of  
25 assessed valuation, including school districts, as well as  
26 intercounty comparisons of assessed valuation, including school  
27 districts. The Property Tax Administrator shall include analysis  
1 of real property sales pursuant to land contracts and similar  
2 transfers at the time of execution of the contract or similar  
3 transfer.  
4 Sec. 7. This act becomes operative on July 1, 2005.  
5 Sec. 8. Original sections 58-703, 58-706, 76-901,  
6 76-903, and 77-1327, Reissue Revised Statutes of Nebraska, and  
7 section 71-812, Revised Statutes Supplement, 2004, are repealed.  
8 Sec. 9. Since an emergency exists, this act takes effect  
9 when passed and approved according to law.'".

Senators Redfield, Jensen, and Synowiecki filed the following amendment to LB 40A:

AM1232

1 1. Strike the original section and insert the following  
2 new sections:  
3 "Section 1. There is hereby appropriated (1) \$2,000,000  
4 from the Behavioral Health Services Fund for FY2005-06 and (2)  
5 \$2,000,000 from the Behavioral Health Services Fund for FY2006-07  
6 to the Department of Health and Human Services Finance and Support,  
7 for Program 38, to aid in carrying out the provisions of  
8 Legislative Bill 40, Ninety-ninth Legislature, First Session, 2005.  
9 No expenditures for permanent and temporary salaries and  
10 per diems for state employees shall be made from funds appropriated  
11 in this section.  
12 There is included in the appropriation to this program  
13 for FY2005-06 \$2,000,000 Cash Funds for state aid, which shall only  
14 be used for such purpose. There is included in the appropriation

15 to this program for FY2006-07 \$2,000,000 Cash Funds for state aid,  
16 which shall only be used for such purpose.

17 Sec. 2. There is hereby appropriated \$100,000 from the  
18 Behavioral Health Services Fund for FY2005-06 to the Department of  
19 Health and Human Services Finance and Support, for Program 38, to  
20 aid in carrying out the provisions of Legislative Bill 40,  
21 Ninety-ninth Legislature, First Session, 2005.

22 No expenditures for permanent and temporary salaries and  
23 per diems for state employees shall be made from funds appropriated  
24 in this section.

1 There is included in the appropriation to this program  
2 for FY2005-06 \$100,000 Cash Funds for state aid, which shall only  
3 be used for such purpose.

4 Funds appropriated in this section shall only be used for  
5 housing-related assistance for very low-income adults with serious  
6 mental illness. The Division of Behavioral Health Services of the  
7 Department of Health and Human Services shall manage and distribute  
8 such funds based upon a formula established by the division, in  
9 consultation with regional behavioral health authorities and the  
10 Department of Health and Human Services Finance and Support, in a  
11 manner consistent with and reasonably calculated to promote the  
12 purposes of the public behavioral health system provided in section  
13 71-803.

14 The Division of Behavioral Health Services of the  
15 Department of Health and Human Services shall contract with each  
16 regional behavioral health authority for the provision of such  
17 assistance. Each regional behavioral health authority may contract  
18 with qualifying public, private, or nonprofit entities for the  
19 provision of such assistance.

20 For purposes of this section (1) housing-related  
21 assistance means rental payments, utility payments, security and  
22 utility deposits, and other related costs and payments, (2) very  
23 low-income means a household income of fifty percent or less of the  
24 applicable median family income estimate as established by the  
25 United States Department of Housing and Urban Development, and (3)  
26 adult with serious mental illness means a person eighteen years of  
27 age or older who has, or at any time during the immediately

1 preceding twelve months has had, a diagnosable mental, behavioral,  
2 or emotional disorder of sufficient duration to meet diagnostic  
3 criteria identified in the most recent edition of the Diagnostic  
4 and Statistical Manual of Mental Disorders and which has resulted  
5 in functional impairment that substantially interferes with or  
6 limits one or more major life functions. Serious mental illness  
7 does not include DSM V codes, substance abuse disorders, or  
8 developmental disabilities unless such conditions exist  
9 concurrently with a diagnosable serious mental illness.

10 Sec. 3. There is hereby appropriated \$1,845,000 from the  
11 Behavioral Health Services Fund for FY2005-06 to the Department of  
12 Health and Human Services Finance and Support, for Program 38, to

13 aid in carrying out the provisions of Legislative Bill 40,  
14 Ninety-ninth Legislature, First Session, 2005.  
15 No expenditures for permanent and temporary salaries and  
16 per diems for state employees shall be made from funds appropriated  
17 in this section.  
18 There is included in the appropriation to this program  
19 for FY2005-06 \$1,845,000 Cash Funds for state aid, which shall only  
20 be used for such purpose.  
21 Funds appropriated in this section shall be distributed  
22 to each regional behavioral health authority on a per capita basis  
23 no later than thirty days after receipt of such funds and shall  
24 only be used for one-time funding for new construction,  
25 acquisition, or rehabilitation of housing to assist very low-income  
26 adults with serious mental illness.  
27 Each regional behavioral health authority may contract  
1 with qualifying public, private, or nonprofit entities for the  
2 provision of such assistance.  
3 For purposes of this section (1) very low-income means a  
4 household income of fifty percent or less of the applicable median  
5 family income estimate as established by the United States  
6 Department of Housing and Urban Development and (2) adult with  
7 serious mental illness means a person eighteen years of age or  
8 older who has, or at any time during the immediately preceding  
9 twelve months has had, a diagnosable mental, behavioral, or  
10 emotional disorder of sufficient duration to meet diagnostic  
11 criteria identified in the most recent edition of the Diagnostic  
12 and Statistical Manual of Mental Disorders and which has resulted  
13 in functional impairment that substantially interferes with or  
14 limits one or more major life functions. Serious mental illness  
15 does not include DSM V codes, substance abuse disorders, or  
16 developmental disabilities unless such conditions exist  
17 concurrently with a diagnosable serious mental illness.  
18 Sec. 4. Since an emergency exists, this act takes effect  
19 when passed and approved according to law."

## VISITORS

Visitors to the Chamber were Rafael Trotman from the Guyana Parliament and Brian Ridenour from Lincoln; 40 fourth-grade students and teachers from Nebraska City; Mike Brtek from Norfolk, Maurice Jantze from Milford, and Jim Stehlik from Nebraska City; 26 twelfth-grade students and teacher from Cambridge; 22 fourth-grade students and teacher from Lyons Decatur N. E., Lyons; 37 fourth-grade students and teachers from Mockingbird Elementary School, Ralston; members of Nebraska Federation of Republican Women; and Fern Shamberg and Clara Owolabi from Fairbury.

**RECESS**

At 12:00 p.m., on a motion by Senator Heidemann, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senator Bourne who was excused; and Senators Dw. Pedersen and Thompson who were excused until they arrive.

**GENERAL FILE**

**LEGISLATIVE BILL 70.** The Smith pending amendment, AM0051, found on page 697 and considered in this day's Journal, was renewed.

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 1 nay, and 20 not voting.

The Smith amendment was adopted with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

Senator Beutler renewed his pending amendment, FA149, found on page 1126.

Pending.

**AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 542:  
AM1228

(Amendments to AM1099)

- 1 1. On page 1, line 4, strike "fifteen" and insert
- 2 "nineteen"; in line 5 strike "Eight" and insert "Ten"; in line 17
- 3 strike "and"; and in line 19 after "Governor" insert ";
- 4 (8) One representative of organized labor appointed by
- 5 the Governor; and
- 6 (9) One representative of a low-income advocacy group
- 7 appointed by the Governor".

Senator Beutler filed the following amendment to LB 454:  
AM1233

(Amendments to Standing Committee amendments, AM0810)

- 1 1. On page 2, line 15, before the period insert "which

2 meets the minimum safety and training requirements of section 6 of  
 3 this act".

4 2. On page 3, strike beginning with "a" in line 2  
 5 through the second "and" in line 5; and in line 8 after the period  
 6 insert "The applicant shall attach to the application proof of  
 7 training and proof of vision as required in subdivision (3) of  
 8 section 7 of this act".

9 3. On page 6, line 1, after the first "or" insert "not";  
 10 in line 2 before the semicolon insert "under the laws of this state  
 11 or under the laws of any other jurisdiction"; in lines 3 and 14  
 12 strike "five" and insert "ten"; and in lines 20 and 21 strike  
 13 "Superintendent" through "Safety" and insert "Nebraska State  
 14 Patrol".

15 4. On page 8, line 1, after "cause" insert "to believe".

Senator Chambers filed the following amendment to LB 454:  
 AM1238

(Amendments to Standing Committee amendments, AM0810)

1 1. Insert the following new sections:  
 2 "Sec. 23. To determine the number of pistols a licensee  
 3 may lawfully carry concealed under the Concealed Handgun Permit Act  
 4 or section 28-1202 on any given occasion (except if the United  
 5 States or the State of Nebraska shall be at war), the body weight  
 6 of the licensee shall be multiplied by ten-times the licensee's  
 7 (admitted) age, then divided into the year of the licensee's birth  
 8 plus one hundred thirty-seven and one-half, then add the number of  
 9 inches of the licensee's height rounded up to the next full inch  
 10 which shall be subtracted from the number of the current century  
 11 (2100), if the number of the current century exceeds the other  
 12 number, otherwise subtract the number of the current century from  
 13 the other number, then, after multiplying the size of the  
 14 licensee's right shoe by three-times the girth of the licensee's  
 15 waist after a full meal, measured and certified by a professional  
 16 tailor, subtract the sum obtained by adding together the digits in  
 17 the licensee's social security number (which number shall be made  
 18 known only to the licensing authority and any employee thereof who  
 19 shall be guilty of a Class IB felony for any unauthorized  
 20 disclosure of the number to any other person), then divide the  
 21 grand total by three-fifths of the number on line 17 of the  
 22 licensee's personal income tax return (federal) for the immediately  
 23 preceding year, but if the licensee is not required by law to file  
 1 a federal income tax return or if the licensee failed to file a tax  
 2 return for the immediately preceding year and has not been indicted  
 3 for failure to file a return, this step should be disregarded and  
 4 in its stead, the licensee's home address (no post office box  
 5 number is acceptable) multiplied by ten if the address contains  
 6 four or fewer digits but by six and five-tenths if such address  
 7 contains five or more digits, but in no case shall the number of  
 8 pistols carried concealed exceed the total number of the licensee's

9 pockets at the time of being approached, stopped, accosted,  
10 interrogated, or otherwise contacted by any sworn law enforcement  
11 officer and any other suitable hiding places including, but not  
12 limited to: (1) Purses, (2) tote bags, (3) shopping bags of  
13 whatever material or variety just so the pistol is not visible, (4)  
14 umbrellas, (5) picnic baskets, (6) beverage coolers, (7) boots, (8)  
15 bras, (9) bloomers, (10) shorts (jockey or boxer), (11) briefcases,  
16 (12) backpacks, (13) hidden holsters or reasonable facsimiles  
17 thereof, (14) baggy britches, (15) billowy shirts, (16) bulky  
18 sweaters, (17) flouncy skirts, et al., (18) coats of any and every  
19 kind and variety, (19) wide sleeves, (20) big hair, (21) hats, (22)  
20 helmets, (23) prostheses, (24) canes and walking sticks of any and  
21 every variety suitable for the purpose of concealing a firearm,  
22 (25) lunch buckets or boxes, and (26) hollowed-out books and the  
23 like.

24 Sec. 24. Section 23 of this act shall be liberally  
25 construed to accomplish the purpose of ensuring that licensees may  
26 carry concealed the maximum number of pistols for personal  
27 protection due to paranoia and stark terror of the licensee toward  
1 the licensee's family, friends, neighbors, strangers, and possible  
2 enemy invaders.

3 Sec. 25. Any person who violates section 23 of this act  
4 is guilty of an infraction. In addition to any other punishment  
5 imposed by the court, the defendant shall be required to go about  
6 unarmed for a number of days equal to six times the sentencing  
7 judge's age divided by the number of the courtroom where the  
8 sentence is pronounced, subtracted from two hundred fifty, and  
9 multiplied by two, but in no case fewer than one hundred eighty  
10 days.

11 Sec. 26. If the defendant fails to comply fully and  
12 completely with the going-about-unarmed requirement of section 25  
13 of this act, the defendant shall be taken into custody and after a  
14 hearing shall be transported by the sheriff of the county where the  
15 proceedings were had to the facility or location where the Nebraska  
16 State Patrol conducts firearms training and there the defendant's  
17 trigger finger shall be shot off by Nebraska State Senator Jeanne  
18 M. Combs using a pistol of her choice but which must be approved by  
19 the Superintendent of Law Enforcement and Public Safety. Execution  
20 of the punishment shall be without the benefit of any type of  
21 anesthesia other than flavored malt liquor.

22 Sec. 27. In case of the death, sickness, absence, cold  
23 feet, or inability to act, then State Senator Combs shall, in  
24 writing, with the approval of the Superintendent of Law Enforcement  
25 and Public Safety, designate and appoint a suitable and competent  
26 person to act for her as shooter in any particular case.

27 Sec. 28. Any offense punishable by the shooting off of  
1 the trigger finger must be punished according to the provisions  
2 herein made and no other. The trigger finger or any parts,  
3 portions, shreds, fragments, bits, pieces, other remnants, or

4 leftovers shall be offered to the defendant for disposal in the  
5 manner the defendant deems appropriate, otherwise cremation shall  
6 be employed.

7 Sec. 29. When any person shall be sentenced to have his  
8 or her trigger finger shot off, such punishment shall be inflicted  
9 in such a manner as to exclude the view of all persons save any  
10 clergyperson in attendance upon request of the defendant, the  
11 Superintendent of Law Enforcement and Public Safety or his or her  
12 designee, no more than three additional officers of the Nebraska  
13 State Patrol selected and assigned by the superintendent, any  
14 medical and other personnel deemed necessary or expedient by the  
15 superintendent or his or her designee, and no more than three  
16 representatives of the news media except that no television cameras  
17 or other photographic devices or recording devices of any kind  
18 shall be permitted at the scene of the shoot-off. In addition, the  
19 defendant may choose to allow as many as ten tickets to be  
20 auctioned to grant witnessing privileges to the ten highest bidders  
21 if the proceeds are donated to a nonprofit charity.

22 Sec. 30. The filing of a notice of appeal shall act as a  
23 supersedeas and shall stay execution of the sentence until after  
24 all appellate proceedings have been completed and the sentence  
25 affirmed.

26 Sec. 31. The cost of all proceedings, transportation,  
27 use of the Nebraska State Patrol facility, and any ammunition shall  
1 be borne by the defendant unless the sentence is overturned by the  
2 court."

3 2. Renumber the remaining sections accordingly.

## RESOLUTION

### LEGISLATIVE RESOLUTION 79. Introduced by Howard, 9.

PURPOSE: The purpose of this study is to determine the extent to which wards of the Nebraska Health and Human Services System are being prescribed behavior-modifying medication. The study shall include, but not be limited to:

1. Examination of the number and percentage of state wards that are currently prescribed behavior modifying medication;

2. Examination of the costs incurred by the Nebraska Health and Human Services System as a result of the prescription and administration of behavior-modifying medication to state wards;

3. Examination of the number of foster parents receiving "treatment" level compensation for care of wards whose behavior is being controlled by medication; and

4. Consideration of the need for revisions to the practice of having behavior-modifying medications prescribed to state wards.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an

interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **GENERAL FILE**

**LEGISLATIVE BILL 70.** The Beutler pending amendment, FA149, found on page 1126 and considered in this day's Journal, was renewed.

### **SENATOR JANSSEN PRESIDING**

### **PRESIDENT SHEEHY PRESIDING**

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 6 nays, and 17 not voting.

Senator Chambers moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

Senator Chambers requested a roll call vote on the Beutler amendment.

Senator Smith requested the roll call vote be taken in reverse order.

Voting in the affirmative, 16:

Beutler	Foley	Kopplin	Schimek
Byars	Howard	Kruse	Synowiecki
Cornett	Jensen	Pahls	Thompson
Engel	Johnson	Price	Wehrbein

Voting in the negative, 25:

Aguilar	Combs	Flood	Kremer	Redfield
Baker	Connealy	Friend	Landis	Schrock
Brashear	Cunningham	Heidemann	Langemeier	Smith
Burling	Erdman	Hudkins	McDonald	Stuhr
Chambers	Fischer	Janssen	Mines	Stuthman

Present and not voting, 6:

Brown	Pedersen, Dw.	Preister
Louden	Pederson, D.	Raikes

Excused and not voting, 2:

Bourne

Cudaback

The Beutler amendment lost with 16 ayes, 25 nays, 6 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Jensen renewed his pending amendment, AM1106, found on page 1140.

## SENATOR CUDABACK PRESIDING

Pending.

### AMENDMENTS - Print in Journal

Senators Raikes and Landis filed the following amendment to LB 407: AM1196

(Amendments to Standing Committee amendments, AM0501)

- 1 1. Strike section 12.
- 2 2. On page 5, line 23, strike "use", show as stricken,
- 3 and insert "uses".
- 4 3. On page 6, line 18, strike "tax", show as stricken,
- 5 and insert "assessment"; strike lines 19 through 22 and show the
- 6 old matter as stricken; strike beginning with "the" in line 25
- 7 through the first comma in line 26 and show as stricken; and in
- 8 line 26 strike the second comma and show as stricken.
- 9 4. On page 12, line 2, before "The" insert "(1)" and
- 10 strike ", at any time."; in line 4 strike "section" and insert
- 11 "sections 77-1344 and"; strike beginning with "Within" in line 4
- 12 through the period in line 7 and insert "If the county assessor's
- 13 disqualification determination is made on or before March 19 of the
- 14 year for which the land is deemed disqualified, the county assessor
- 15 shall send a written notice of the determination to the applicant
- 16 or owner within fifteen days after his or her determination,
- 17 including the reason for the disqualification."; and in line 16
- 18 after the period insert "The valuation notice relating to the land
- 19 subject to the county assessor's disqualification notice shall be
- 20 sent in accordance with subsection (2) of section 77-1315 and the
- 21 valuation may be protested pursuant to section 77-1502.
- 22 (2) If the county assessor's disqualification
- 1 determination is made after March 19 and on or before July 25 of
- 2 the year for which the land is deemed disqualified, the county
- 3 assessor shall prepare a report for the county board of
- 4 equalization setting forth the parcel the county assessor believes
- 5 should be disqualified, the reason for the disqualification, and
- 6 the valuation of the property after disqualification. The county
- 7 board of equalization may meet on or after June 1 and on or before
- 8 July 25 to consider the question of the disqualification and

9 valuation of a parcel or parcels reported to the county board of  
 10 equalization pursuant to this section. Upon review of the report  
 11 from the county assessor, the county board of equalization may  
 12 issue a written notice to the taxpayer determining that the parcel  
 13 should be disqualified and determining the valuation of the parcel  
 14 after disqualification. A protest of either the disqualification  
 15 determination or the valuation of the parcel, or both, may be filed  
 16 with the county board of equalization within thirty days after the  
 17 mailing of the notice. The county board of equalization shall  
 18 decide the protest within thirty days after the filing of the  
 19 protest. The county clerk shall, within seven days after the  
 20 county board of equalization's final decision, mail to the  
 21 protester written notification of the board's decision. The  
 22 decision of the county board of equalization may be appealed to the  
 23 Tax Equalization and Review Commission in accordance with section  
 24 77-5013 within thirty days after the date of the decision."

25 5. On page 15, strike beginning with line 22 through  
 26 "and" in line 23.

27 6. On page 20, line 25, strike "77-1359, and 77-1381"  
 1 and insert "and 77-1359".

2 7. Renumber the remaining sections accordingly.

Senator D. Pederson filed the following amendment to LB 673A:  
 FA167

On page 2, line 1, strike \$100,000 and insert "\$25,000."

On page 2, line 2, strike \$100,000 and insert "\$25,000."

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Smith asked unanimous consent to have his name added as cointroducer to LB 114. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Christian, Daniel, and Mathias Holst from Copenhagen, Denmark, and Ron and Karen Barker from Lincoln; 11 fifth-, seventh-, and eighth-grade students and teacher from Harrison; and 41 fifth- and sixth-grade students and teachers from Kenesaw.

### **ADJOURNMENT**

At 4:01 p.m., on a motion by Senator Byars, the Legislature adjourned until 9:00 a.m., Wednesday, April 20, 2005.

Patrick J. O'Donnell  
 Clerk of the Legislature



**SIXTY-FOURTH DAY - APRIL 20, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SIXTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, April 20, 2005

**PRAYER**

The prayer was offered by Senator Heidemann.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Bourne who was excused; and Senators Brashear, Brown, Landis, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-third day was approved.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 80.** Introduced by Stuthman, 22.

WHEREAS, Stephen Wilke is a junior at Columbus High School; and

WHEREAS, Stephen achieved a perfect score of 36 on the ACT Assessment given in December, 2004; and

WHEREAS, Stephen was the only Nebraskan and one of 17 students nationwide to receive such a score on the December, 2004, test; and

WHEREAS, Stephen's career interests include the areas of physical science and the clergy. He would like to attend either Harvard University or MIT; and

WHEREAS, the Columbus Board of Education has also recognized Stephen's accomplishment.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Stephen Wilke on his perfect ACT Assessment score.

2. That a copy of this resolution be sent to Stephen Wilke.

Laid over.

### SELECT FILE

**LEGISLATIVE BILL 709.** E & R amendment, AM7080, found on page 1129, was adopted.

Senator Beutler withdrew his pending amendments, AM1079 and AM1191, found on pages 1159 and 1189.

Senator Erdman offered the following amendment:

AM1249

(Amendments to E & R amendments, AM7080)

- 1 1. On page 1, line 14, strike "has" and insert "may".
- 2 2. On page 2, line 27, strike "mitigate" and insert
- 3 "moderate".
- 4 3. On page 3, strike beginning with "without" in line 1
- 5 through "care" in line 2; in line 8 before "It" insert "(1)"; and
- 6 in line 11 after the period insert:
- 7 "(2) It is the intent of the Legislature that such plan
- 8 consider and address: (a) The needs of low-income, disabled, and
- 9 aged persons currently receiving medicaid services; (b) avoiding
- 10 the shifting of the primary costs of health care services to
- 11 providers of care; (c) the appropriate role of county government in
- 12 providing health care services; (d) the availability and
- 13 affordability of private health care insurance and long-term care
- 14 insurance; (e) the personal responsibility of persons, who are
- 15 able, to select and provide for all or a portion of the payment for
- 16 their health care services; and (f) the fiscal sustainability of
- 17 such plan."
- 18 4. On page 4, line 21, after "(3)" insert "The council
- 19 shall review the medicaid reform plan submitted under section 6 of
- 20 this act and shall provide recommendations relating to the plan to
- 21 the Governor and the Legislature on or before December 14, 2005.
- 22 (4)".

Senator Flood offered the following amendment to the Erdman pending amendment:

FA168

Amend AM1249

On page 1, line 16, strike "and"; in line 17 after the period insert the following: "and (g) alternatives to increase federal funding for services in order to reduce dependence on General Funds and maintain or increase the total amount of funding for such services, and the possible utilization of national consultants to assist in the consideration of such alternatives."

The Flood amendment was adopted with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

The Erdman amendment, as amended, was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

Senator Synowiecki offered the following amendment:

AM1209

(Amendments to E & R amendments, AM7080)

- 1 1. Insert the following new sections:
- 2 "Sec. 14. Sections 14 to 18 of this act shall be known
- 3 and may be referred to as the Employer Public Health Services
- 4 Report Act.
- 5 Sec. 15. For purposes of the Employer Public Health
- 6 Services Report Act, public health program beneficiary means a
- 7 person who receives medical assistance under the medical assistance
- 8 program established under section 68-1018.
- 9 Sec. 16. A public health program beneficiary shall
- 10 identify his or her employer or employers at the time of applying
- 11 for benefits under the medical assistance program. If the public
- 12 health program beneficiary is not employed and is the spouse or
- 13 dependent of an employed individual, he or she shall identify the
- 14 employer or employers of his or her spouse or legal guardian.
- 15 Sec. 17. On or before February 1 each year, the
- 16 Department of Health and Human Services Finance and Support, in
- 17 collaboration with the Department of Labor, shall submit to the
- 18 Legislature a report identifying all employers who employ
- 19 twenty-five or more public health program beneficiaries. In
- 20 determining whether the twenty-five employee threshold is met, the
- 21 Department of Health and Human Services Finance and Support shall
- 22 include all public health program beneficiaries employed by the
- 23 employer and its subsidiaries at all locations within the state.
- 1 The report shall include:
- 2 (1) The name and address of the employer;
- 3 (2) The number of public health program beneficiaries who
- 4 are employees of the employer;
- 5 (3) The number of public health program beneficiaries who
- 6 are spouses or dependents of employees of the employer; and
- 7 (4) Whether the employer offers health benefits to its
- 8 employees.
- 9 The report shall not include the names of any public
- 10 health access program beneficiaries and shall be subject to privacy
- 11 standards pursuant to the federal Health Insurance Portability and
- 12 Accountability Act of 1996, as the act existed on January 1, 2005.
- 13 Sec. 18. In addition to filing the report with the
- 14 Legislature, the Department of Health and Human Services Finance
- 15 and Support shall make the report under section 17 of this act
- 16 available to the public through the means it typically uses to
- 17 disseminate information publicly. Any person may request and
- 18 receive a copy of the report."
- 19 2. Renumber the remaining section accordingly.

Senator Synowiecki withdrew his amendment.

Senator Chambers offered the following amendment:

AM1135

(Amendments to E & R amendments, AM7080)

- 1 1. Insert the following new section:
- 2 "Sec. 14. Notwithstanding any other provision of law,
- 3 the Director of Health and Human Services and the Tax Commissioner
- 4 shall annually prepare an employee health benefit report. The
- 5 report shall provide the following information for each business
- 6 which has signed an agreement to receive tax incentives under the
- 7 Employment and Investment Growth Act, the Employment Expansion and
- 8 Investment Incentive Act, including the Enterprise Zone Act, the
- 9 Invest Nebraska Act, or the Rural Economic Opportunities Act:
- 10 (1) The name and address of the business;
- 11 (2) The number of employees of the business;
- 12 (3) Whether the business offers health benefits to its
- 13 employees, and if so, the nature and scope of the health benefits;
- 14 and
- 15 (4) The number of employees and the number of spouses or
- 16 dependents of employees who are covered under health benefits
- 17 offered by the business and the nature and scope of such coverage.
- 18 The report shall be submitted annually on February 1 to
- 19 the Health and Human Services Committee of the Legislature and the
- 20 Revenue Committee of the Legislature."
- 21 2. Renumber the remaining section accordingly.

Senator Chambers withdrew his amendment.

Senators Beutler and Mines offered the following amendment:

AM1256

(Amendments to E & R amendments, AM7080)

- 1 1. Insert the following new sections:
- 2 "Section 1. The Legislature finds that (1) the
- 3 Department of Health and Human Services and the Department of
- 4 Health and Human Services Finance and Support rely on health
- 5 insurance and claims information from private insurers to ensure
- 6 accuracy in processing state benefit program payments to providers
- 7 and in verifying individual recipients' eligibility, (2) delay or
- 8 refusal to provide such information causes unnecessary expenditures
- 9 of state funds, (3) disclosure of such information to the
- 10 Department of Health and Human Services and the Department of
- 11 Health and Human Services Finance and Support is permitted pursuant
- 12 to the federal Health Insurance Portability and Accountability
- 13 privacy rules under 45 C.F.R. part 164, and (4) for medical
- 14 assistance program recipients who also have other insurance
- 15 coverage, including coverage by licensed and self-funded insurers,
- 16 the Department of Health and Human Services Finance and Support is
- 17 required by 42 U.S.C. 1396a(a)(25) to assure that licensed and

18 self-funded insurers coordinate benefits with the program.

19 Sec. 2. For purposes of sections 1 to 8 of this act:

20 (1) Coordinate benefits means:

21 (a) Provide to the Department of Health and Human

22 Services or the Department of Health and Human Services Finance and

23 Support information regarding the licensed insurer's or self-funded

1 insurer's existing coverage for an individual who is eligible for a

2 state benefit program; and

3 (b) Meet payment obligations;

4 (2) Coverage information means health information

5 possessed by a licensed insurer or self-funded insurer that is

6 limited to the following information about an individual:

7 (a) Eligibility for coverage under a health plan;

8 (b) Coverage of health care under the health plan; or

9 (c) Benefits and payments associated with the health

10 plan;

11 (3) Health plan means any policy of insurance issued by a

12 licensed insurer or any employee benefit plan offered by a

13 self-funded insurer that provides for payment to or on behalf of an

14 individual as a result of an illness, disability, or injury or

15 change in a health condition;

16 (4) Individual means a person covered by a state benefit

17 program, including the medical assistance program established under

18 sections 68-1018 to 68-1025, or a person applying for such

19 coverage;

20 (5) Licensed insurer means any insurer, except a

21 self-funded insurer, including a fraternal benefit society,

22 producer, or other person licensed or required to be licensed,

23 authorized or required to be authorized, or registered or required

24 to be registered pursuant to the insurance laws of the state; and

25 (6) Self-funded insurer means any employer or union who

26 provides a self-funded employee benefit plan.

27 Sec. 3. (1) Except as provided in subsection (2) of this

1 section, at the request of the Department of Health and Human

2 Services or the Department of Health and Human Services Finance and

3 Support, a licensed insurer or a self-funded insurer shall provide

4 coverage information to the requesting department without an

5 individual's authorization for purposes of:

6 (a) Determining an individual's eligibility for state

7 benefit programs, including the medical assistance program

8 established under sections 68-1018 to 68-1025; or

9 (b) Coordinating benefits with state benefit programs.

10 Such information shall be provided within thirty days

11 after the date of request unless good cause is shown. Requests for

12 coverage information shall specify individual recipients for whom

13 information is being requested.

14 (2)(a) Coverage information requested pursuant to

15 subsection (1) of this section regarding a limited benefit policy

16 shall be limited to whether a specified individual has coverage

17 and, if so, a description of that coverage, and such information  
18 shall be used solely for the purposes of subdivision (1)(a) of this  
19 section.

20 (b) For purposes of this section, limited benefit policy  
21 means a policy of insurance issued by a licensed insurer that:

22 (i) Consists only of one or more, or any combination of  
23 the following:

24 (A) Coverage only for accident or disability income  
25 insurance, or any combination thereof;

26 (B) Coverage for specified disease or illness; or

27 (C) Hospital indemnity or other fixed indemnity

1 insurance; and

2 (ii) The benefits of which are payable only to a covered  
3 individual and not to a health care provider.

4 Sec. 4. Any violation of section 3 of this act by a

5 licensed insurer shall be subject to the Unfair Insurance Claims  
6 Settlement Practices Act.

7 Sec. 5. The Department of Health and Human Services

8 Finance and Support may impose and collect a civil penalty on a

9 self-funded insurer who violates the requirements of section 3 of

10 this act if the department finds that the self-funded insurer:

11 (1) Committed the violation flagrantly and in conscious

12 disregard of the requirements; or

13 (2) Has committed violations with such frequency as to

14 indicate a general business practice to engage in that type of

15 conduct.

16 The civil penalty shall not be more than one thousand

17 dollars for each violation, not to exceed an aggregate penalty of

18 thirty thousand dollars, unless the violation by the self-funded

19 insurer was committed flagrantly and in conscious disregard of

20 section 3 of this act, in which case the penalty shall not be more

21 than fifteen thousand dollars for each violation, not to exceed an

22 aggregate penalty of one hundred fifty thousand dollars.

23 Sec. 6. The Department of Health and Human Services

24 Finance and Support is authorized to recover all amounts paid or to

25 be paid to state benefit programs as a result of failure to

26 coordinate benefits by a licensed insurer or a self-funded insurer.

27 If at the time the department pursues recovery, the licensed

1 insurer or self-funded insurer has already made any payment, the

2 department may pursue recovery of that payment only from the party

3 who received it. Any amount recovered shall be returned to the

4 fund of the program from which the expenditure was made.

5 Sec. 7. The Department of Health and Human Services

6 Finance and Support shall establish a process by rule and

7 regulation for resolving any violation by a self-funded insurer of

8 section 3 of this act and for assessing the financial penalties

9 contained in section 5 of this act. Any appeal of an action by the

10 department under such policies shall be in accordance with the

11 Administrative Procedure Act.

12 Sec. 8. All money collected as a civil penalty under  
13 section 4 or 5 of this act shall be remitted to the State Treasurer  
14 for distribution in accordance with Article VII, section 5, of the  
15 Constitution of Nebraska.

16 Sec. 9. Section 44-1540, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 44-1540. Any of the following acts or practices by an  
19 insurer, if committed in violation of section 44-1539, shall be an  
20 unfair claims settlement practice:

21 (1) Knowingly misrepresenting to claimants and insureds  
22 relevant facts or policy provisions relating to coverages at issue;

23 (2) Failing to acknowledge with reasonable promptness  
24 pertinent communications with respect to claims arising under its  
25 policies;

26 (3) Failing to adopt and implement reasonable standards  
27 for the prompt investigation and settlement of claims arising under  
1 its policies;

2 (4) Not attempting in good faith to effectuate prompt,  
3 fair, and equitable settlement of claims submitted in which  
4 liability has become reasonably clear;

5 (5) Not attempting in good faith to effectuate prompt,  
6 fair, and equitable settlement of property and casualty claims (a)  
7 in which coverage and the amount of the loss are reasonably clear  
8 and (b) for loss of tangible personal property within real property  
9 which is insured by a policy subject to section 44-501.02 and which  
10 is wholly destroyed by fire, tornado, windstorm, lightning, or  
11 explosion;

12 (6) Compelling insureds or beneficiaries to institute  
13 litigation to recover amounts due under its policies by offering  
14 substantially less than the amounts ultimately recovered in  
15 litigation brought by them;

16 (7) Refusing to pay claims without conducting a  
17 reasonable investigation;

18 (8) Failing to affirm or deny coverage of a claim within  
19 a reasonable time after having completed its investigation related  
20 to such claim;

21 (9) Attempting to settle a claim for less than the amount  
22 to which a reasonable person would believe the insured or  
23 beneficiary was entitled by reference to written or printed  
24 advertising material accompanying or made part of an application;

25 (10) Attempting to settle claims on the basis of an  
26 application which was materially altered without notice to or  
27 knowledge or consent of the insured;

1 (11) Making a claims payment to an insured or beneficiary  
2 without indicating the coverage under which each payment is being  
3 made;

4 (12) Unreasonably delaying the investigation or payment  
5 of claims by requiring both a formal proof-of-loss form and  
6 subsequent verification that would result in duplication of

7 information and verification appearing in the formal proof-of-loss  
8 form;

9 (13) Failing, in the case of the denial of a claim or the  
10 offer of a compromise settlement, to promptly provide a reasonable  
11 and accurate explanation of the basis for such action;

12 (14) Failing to provide forms necessary to present claims  
13 with reasonable explanations regarding their use within fifteen  
14 working days of a request;

15 (15) Failing to adopt and implement reasonable standards  
16 to assure that the repairs of a repairer owned by or affiliated  
17 with the insurer are performed in a skillful manner. For purposes  
18 of this subdivision, a repairer is affiliated with the insurer if  
19 there is a preexisting arrangement, understanding, agreement, or  
20 contract between the insurer and repairer for services in  
21 connection with claims on policies issued by the insurer; ~~and~~

22 (16) Requiring the insured or claimant to use a  
23 particular company or location for motor vehicle repair. Nothing  
24 in this subdivision shall prohibit an insurer from entering into  
25 discount agreements with companies and locations for motor vehicle  
26 repair or otherwise entering into any business arrangements or  
27 affiliations which reduce the cost of motor vehicle repair if the  
1 insured or claimant has the right to use a particular company or  
2 reasonably available location for motor vehicle repair. If the  
3 insured or claimant chooses to use a particular company or location  
4 other than the one providing the lowest estimate for like kind and  
5 quality motor vehicle repair, the insurer shall not be liable for  
6 any cost exceeding the lowest estimate. For purposes of this  
7 subdivision, motor vehicle repair shall include motor vehicle glass  
8 replacement and motor vehicle glass repair; and

9 (17) Failing to provide coverage information or  
10 coordinate benefits pursuant to section 3 of this act.

11 Sec. 23. Sections 1 to 9 and 25 of this act become  
12 operative three calendar months after adjournment of this  
13 legislative session. The other sections of this act become  
14 operative on their effective date.

15 Sec. 24. If any section in this act or any part of any  
16 section is declared invalid or unconstitutional, the declaration  
17 shall not affect the validity or constitutionality of the remaining  
18 portions.

19 Sec. 25. Original section 44-1540, Reissue Revised  
20 Statutes of Nebraska, is repealed."

21 2. Renumber the remaining sections and correct internal  
22 references accordingly.

Senator Beutler withdrew the Beutler-Mines amendment.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 689.** E & R amendment, AM7082, found on page

1133, was adopted.

Senator Beutler withdrew his pending amendment, AM1109, found on page 1159.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 689A.** E & R amendment, AM7083, found on page 1134, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 38.** E & R amendment, AM7084, printed separately and referred to on page 1144, was adopted.

Senator Erdman requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 30 ayes, 8 nays, 8 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 682.** Considered.

Advanced to E & R for engrossment.

### **GENERAL FILE**

**LEGISLATIVE BILL 673.** The Standing Committee amendment, AM0867, printed separately and referred to on page 931 and considered on pages 1175 and 1190, as amended, was renewed.

Senator Chambers renewed his pending amendment, FA165, found on page 1195 and considered on page 1205, to the Standing Committee amendment.

### **SENATOR SCHIMEK PRESIDING**

Senator Chambers moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

### **SPEAKER BRASHEAR PRESIDING**

The Chambers amendment lost with 1 aye, 24 nays, 17 present and not voting, and 7 excused and not voting.

Senator Loudon offered the following motion:

Invoke cloture on LB 673, pursuant to Rule 7, Section 10.

Senator Chambers requested a record vote on the motion to invoke cloture.

Voting in the affirmative, 33:

Aguilar	Connealy	Friend	Kruse	Raikes
Baker	Cunningham	Heidemann	Landis	Schrock
Beutler	Engel	Hudkins	Langemeier	Smith
Brown	Erdman	Janssen	Louden	Stuhr
Burling	Fischer	Jensen	McDonald	Wehrbein
Byars	Flood	Kopplin	Mines	
Combs	Foley	Kremer	Pedersen, Dw.	

Voting in the negative, 2:

Chambers      Schimek

Present and not voting, 9:

Brashear	Cudaback	Pahls	Redfield	Synowiecki
Cornett	Johnson	Preister	Stuthman	

Excused and not voting, 5:

Bourne      Howard      Pederson, D.      Price      Thompson

The Louden motion to invoke cloture prevailed with 33 ayes, 2 nays, 9 present and not voting, and 5 excused and not voting.

The Standing Committee amendment, AM0867, as amended, was adopted with 37 ayes, 1 nay, 6 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 34 ayes, 3 nays, 7 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

## **SENATOR CUDABACK PRESIDING**

### **RESOLUTIONS**

#### **LEGISLATIVE RESOLUTION 81.** Introduced by Smith, 48.

WHEREAS, Kylie Carlson of Scottsbluff received a first-place award in the Nebraska Division of the International Aviation Art Contest in the Age 6-9 category in January 2005; and

WHEREAS, Ms. Carlson's entry won third place at the national level in Washington, D. C., and her entry will be forwarded for international judging this summer; and

WHEREAS, Ms. Carlson's entry was a poster for an air show at the Scottsbluff County Airport.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

## NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Kylie Carlson.
2. That a copy of the resolution be sent to Kylie Carlson.

Laid over.

**LEGISLATIVE RESOLUTION 82.** Introduced by Smith, 48.

WHEREAS, Jonah Wright, 7, of Scottsbluff, won the Nebraska State Jaycees Super Shooters competition in Waverly on March 19th; and

WHEREAS, Wright qualified by winning the Jaycees competition in Scottsbluff in February; and

WHEREAS, in Waverly he competed against 25 other finalists from around the state in the 6 to 7 year old age group and won by shooting at different spots on the floor that had various point values; and

WHEREAS, competitors had 60 seconds to score as many points as possible, and they were given two 60-second periods in which the higher round counted.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Jonah Wright.
2. That a copy of this resolution be sent to Jonah Wright.

Laid over.

**STANDING COMMITTEE REPORT**  
**Urban Affairs**

**LEGISLATIVE RESOLUTION 18CA.** Placed on General File as amended.

Standing Committee amendment to LR 18CA:

AM1242

- 1 1. On page 1, strike lines 13 through 19.
- 2 2. On page 2, strike beginning with the first "of" in
- 3 line 1 through "invested" in line 7 and insert "other provision of
- 4 this Constitution, the Legislature may authorize the investment of
- 5 the public funds of cities, villages, school districts, public
- 6 power districts, and other governmental or political subdivisions
- 7 in such manner and in such investments as the governing body of
- 8 such city, village, school district, public power district, and
- 9 other governmental or political subdivision may determine but
- 10 subject to such limitations as the Legislature may by statute
- 11 provide"; and strike beginning with "provide" in line 11 through
- 12 "invested" in line 17 and insert "authorize the investment of the
- 13 public funds of cities, villages, school districts, public power
- 14 districts, and other governmental or political subdivisions in such
- 15 manner and in such investments as the governing body of such
- 16 governmental or political subdivision may determine subject to
- 17 limitations by the Legislature".

(Signed) Mike Friend, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 673A.** Title read. Considered.

Senator Kruse renewed the D. Pederson pending amendment, FA167, found on page 1223.

Senator Chambers offered the following motion:  
Bracket until May 17, 2005.

Senator Chambers moved for a call of the house. The motion prevailed with 22 ayes, 1 nay, and 26 not voting.

The Chambers motion to bracket failed with 3 ayes, 26 nays, 13 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Pending.

### AMENDMENTS - Print in Journal

Senator Louden filed the following amendment to LB 673:  
AM1252

(Amendments to Standing Committee amendments, AM0867)

- 1 1. On page 1, line 8, after "dog" insert "(Cynomys
- 2 ludovicianus)".

Senators Mines, Baker, and Janssen filed the following amendment to LB 82:  
AM1246

(Amendments to Final Reading copy)

- 1 1. Insert the following new sections:
- 2 "Sec. 8. Section 9-317, Uniform Commercial Code, is
- 3 amended to read:
- 4 9-317. Interests that take priority over or take free of
- 5 security interest or agricultural lien.
- 6 (a) A security interest or agricultural lien is
- 7 subordinate to the rights of:
- 8 (1) a person entitled to priority under section 9-322;
- 9 and
- 10 (2) except as otherwise provided in subsection (e), a
- 11 person that becomes a lien creditor before the earlier of the time:
- 12 (A) the security interest or agricultural lien is
- 13 perfected; or
- 14 (B) one of the conditions specified in section

15 9-203(b)(3) is met and a financing statement covering the  
16 collateral is filed.

17 (b) Except as otherwise provided in subsection (e), a  
18 buyer, other than a secured party, of tangible chattel paper,  
19 documents, goods, instruments, or a security certificate takes free  
20 of a security interest or agricultural lien if the buyer gives  
21 value and receives delivery of the collateral without knowledge of  
22 the security interest or agricultural lien and before it is  
23 perfected.

1 (c) Except as otherwise provided in subsection (e), a  
2 lessee of goods takes free of a security interest or agricultural  
3 lien if the lessee gives value and receives delivery of the  
4 collateral without knowledge of the security interest or  
5 agricultural lien and before it is perfected.

6 (d) A licensee of a general intangible or a buyer, other  
7 than a secured party, of accounts, electronic chattel paper,  
8 general intangibles, or investment property other than a  
9 certificated security takes free of a security interest if the  
10 licensee or buyer gives value without knowledge of the security  
11 interest and before it is perfected.

12 (e) Except as otherwise provided in sections 9-320 and  
13 9-321, if a person files a financing statement with respect to a  
14 purchase-money security interest before or within twenty thirty  
15 days after the debtor receives delivery of the collateral, the  
16 security interest takes priority over the rights of a buyer,  
17 lessee, or lien creditor which arise between the time the security  
18 interest attaches and the time of filing.

19 Sec. 9. Section 9-324, Uniform Commercial Code, is  
20 amended to read:

21 9-324. Priority of purchase-money security interests.

22 (a) Except as otherwise provided in subsection (g), a  
23 perfected purchase-money security interest in goods other than  
24 inventory or livestock has priority over a conflicting security  
25 interest in the same goods, and, except as otherwise provided in  
26 section 9-327, a perfected security interest in its identifiable  
27 proceeds also has priority, if the purchase-money security interest  
1 is perfected when the debtor receives possession of the collateral  
2 or within twenty thirty days thereafter.

3 (b) Subject to subsection (c) and except as otherwise  
4 provided in subsection (g), a perfected purchase-money security  
5 interest in inventory has priority over a conflicting security  
6 interest in the same inventory, has priority over a conflicting  
7 security interest in chattel paper or an instrument constituting  
8 proceeds of the inventory and in proceeds of the chattel paper, if  
9 so provided in section 9-330, and, except as otherwise provided in  
10 section 9-327, also has priority in identifiable cash proceeds of  
11 the inventory to the extent the identifiable cash proceeds are  
12 received on or before the delivery of the inventory to a buyer, if:

13 (1) the purchase-money security interest is perfected

14 when the debtor receives possession of the inventory;

15 (2) the purchase-money secured party sends an  
16 authenticated notification to the holder of the conflicting  
17 security interest;

18 (3) the holder of the conflicting security interest  
19 receives the notification within five years before the debtor  
20 receives possession of the inventory; and

21 (4) the notification states that the person sending the  
22 notification has or expects to acquire a purchase-money security  
23 interest in inventory of the debtor and describes the inventory.

24 (c) Subdivisions (b)(2) through (4) apply only if the  
25 holder of the conflicting security interest had filed a financing  
26 statement covering the same types of inventory:

27 (1) if the purchase-money security interest is perfected

1 by filing, before the date of the filing; or

2 (2) if the purchase-money security interest is

3 temporarily perfected without filing or possession under section  
4 9-312(f), before the beginning of the twenty-day period thereunder.

5 (d) Subject to subsection (e) and except as otherwise

6 provided in subsection (g), a perfected purchase-money security

7 interest in livestock that are farm products has priority over a

8 conflicting security interest in the same livestock, and, except as

9 otherwise provided in section 9-327, a perfected security interest

10 in their identifiable proceeds and identifiable products in their  
11 unmanufactured states also has priority, if:

12 (1) the purchase-money security interest is perfected

13 when the debtor receives possession of the livestock;

14 (2) the purchase-money secured party sends an

15 authenticated notification to the holder of the conflicting

16 security interest;

17 (3) the holder of the conflicting security interest

18 receives the notification within six months before the debtor

19 receives possession of the livestock; and

20 (4) the notification states that the person sending the

21 notification has or expects to acquire a purchase-money security

22 interest in livestock of the debtor and describes the livestock.

23 (e) Subdivisions (d)(2) through (4) apply only if the

24 holder of the conflicting security interest had filed a financing

25 statement covering the same types of livestock:

26 (1) if the purchase-money security interest is perfected

27 by filing, before the date of the filing; or

1 (2) if the purchase-money security interest is

2 temporarily perfected without filing or possession under section

3 9-312(f), before the beginning of the twenty-day period thereunder.

4 (f) Except as otherwise provided in subsection (g), a

5 perfected purchase-money security interest in software has priority

6 over a conflicting security interest in the same collateral, and,

7 except as otherwise provided in section 9-327, a perfected security

8 interest in its identifiable proceeds also has priority, to the

9 extent that the purchase-money security interest in the goods in  
10 which the software was acquired for use has priority in the goods  
11 and proceeds of the goods under this section.

12 (g) If more than one security interest qualifies for  
13 priority in the same collateral under subsection (a), (b), (d), or  
14 (f):

15 (1) a security interest securing an obligation incurred  
16 as all or part of the price of the collateral has priority over a  
17 security interest securing an obligation incurred for value given  
18 to enable the debtor to acquire rights in or the use of collateral;  
19 and

20 (2) in all other cases, section 9-322(a) applies to the  
21 qualifying security interests.

22 Sec. 10. Sections 8, 9, and 11 of this act become  
23 operative on October 17, 2005. The other sections of this act  
24 become operative on their effective date.

25 Sec. 11. Original sections 9-317 and 9-324, Uniform  
26 Commercial Code, are repealed."

27 2. On page 1, line 3, after "Nebraska" insert ", and  
1 sections 9-317 and 9-324, Uniform Commercial Code"; in line 7,  
2 after the semicolon insert "to change provisions relating to  
3 purchase-money security interests; and in line 8 after the  
4 semicolon insert "to provide operative dates;".

5 4. Renumber the remaining section accordingly.

### **VISITORS**

Visitors to the Chamber were 26 fourth-grade students and teacher from Scribner-Snyder Elementary School, Scribner; 11 seventh-grade students and teacher from Shickley; 32 fourth-grade students and teacher from Doniphan-Trumbull School, Doniphan; 75 fourth-grade students and teachers from Field Club Elementary School, Omaha; Norman and Karen Wichman from Pender; Senator Engel's sister-in-law, Yvonne Engel, from Elkhorn and Dona Clauff from Omaha; and 47 fourth-grade students and teacher from Harrison Elementary School, Omaha.

### **RECESS**

At 11:56 a.m., on a motion by Senator Brown, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

### **ROLL CALL**

The roll was called and all members were present except Senators Bourne, Howard, Kopplin, and D. Pederson who were excused; and Senators Brown,

Engel, Heidemann, Landis, Mines, and Synowiecki who were excused until they arrive.

### GENERAL FILE

**LEGISLATIVE BILL 673A.** Senator Chambers offered the following motion:

Reconsider the vote taken on the bracket motion.

Senator Chambers asked unanimous consent to withdraw his motion to reconsider. No objections. So ordered.

Senator Chambers offered the following amendment to the D. Pederson pending amendment:

FA174

On page 2 in line 2 strike beginning with the first appearance of "the" through "27" in line 4 and insert "the Rural Development Trust Fund".

Senator Chambers moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 23:

Brashear	Flood	Kremer	Mines	Stuhr
Burling	Foley	Kruse	Pedersen, Dw.	Stuthman
Engel	Friend	Langemeier	Schimek	Wehrbein
Erdman	Hudkins	Louden	Schrock	
Fischer	Janssen	McDonald	Smith	

Present and not voting, 17:

Aguilar	Combs	Jensen	Price	Thompson
Beutler	Cornett	Johnson	Raikes	
Brown	Cudaback	Pahls	Redfield	
Byars	Cunningham	Preister	Synowiecki	

Excused and not voting, 8:

Baker	Connealy	Howard	Landis
Bourne	Heidemann	Kopplin	Pederson, D.

The Chambers amendment lost with 1 aye, 23 nays, 17 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

The D. Pederson pending amendment, FA167, found on page 1223 and considered in this day's Journal, was renewed.

The D. Pederson amendment was adopted with 30 ayes, 2 nays, 9 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 31 ayes, 3 nays, 7 present and not voting, and 8 excused and not voting.

### AMENDMENT - Print in Journal

Senator Janssen filed the following amendment to LB 573:  
AM1189

(Amendments to Standing Committee amendments, AM0091)

- 1 1. Strike section 4 and insert the following new
- 2 section:
- 3 "Sec. 4. Section 2-1213, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 2-1213. ~~(4)~~ (1)(a) No racing under sections 2-1201 to
- 6 2-1218 shall be permitted on Sunday except when approved by a
- 7 majority of the members of the State Racing Commission upon
- 8 application for approval by any racetrack. Such approval shall be
- 9 given after the commission has considered: ~~(a)~~ (i) Whether Sunday
- 10 racing at the applicant track will tend to promote and encourage
- 11 agriculture and horse breeding in Nebraska; ~~(b)~~ (ii) whether the
- 12 applicant track operates under a license granted by the commission;
- 13 ~~(c)~~ (iii) whether the applicant track is in compliance with all
- 14 applicable health, safety, fire, and police rules and regulations
- 15 or ordinances; ~~(d)~~ (iv) whether the denial of Sunday racing at the
- 16 applicant track would impair such track's economic ability to
- 17 continue to function under its license; and ~~(e)~~ (v) whether the
- 18 record of the public hearing held on the issue of Sunday racing at
- 19 the applicant track shows reasonable public support. Notice of
- 20 such public hearing shall be given at least ten days prior thereto
- 21 by publication in a newspaper having general circulation in the
- 22 county in which the applicant track is operating, and the
- 23 commission shall conduct a public hearing in such county. The
- 1 commission may adopt, promulgate, and enforce rules and regulations
- 2 governing the application and approval for Sunday racing in
- 3 addition to its powers in section 2-1203. If the commission
- 4 permits racing on Sunday, the voters may prohibit such racing in
- 5 the manner prescribed in section 2-1213.01. If approval by the
- 6 commission for Sunday racing at the applicant track is granted, no
- 7 racing shall occur on Sunday until after 1 p.m.
- 8 (b) No license shall be granted for racing on more than
- 9 one racetrack in any one county, except that the commission may, in

10 its discretion, grant a license to any county agricultural society  
11 to conduct racing during its county fair notwithstanding a license  
12 may have been issued for racing on another track in such county.  
13 (c) Since the purpose of sections 2-1201 to 2-1218 is to  
14 encourage agriculture and horse breeding in Nebraska, every  
15 licensee shall hold at least one race on each racing day limited to  
16 Nebraska-bred horses, including thoroughbreds or quarter horses.  
17 Three percent of the first money of every purse won by a  
18 Nebraska-bred horse shall be paid to the breeder of such horse.  
19 Beginning September 1, 2005, through January 1, 2008, each licensee  
20 who holds a license for quarter horseracing shall, for each live  
21 racing day, give preference to Nebraska-bred quarter horses in at  
22 least one race in lieu of the requirements of this subdivision.

23 (2) For purposes of this section, Nebraska-bred horse  
24 shall mean a horse registered with the Nebraska Thoroughbred or  
25 Quarter Horse Registry and meeting the following requirements: (a)  
26 It shall have been foaled in Nebraska; (b) its dam shall have been  
27 registered, prior to foaling, with the Nebraska Thoroughbred or  
1 Quarter Horse Registry; and (c) its dam shall have been  
2 continuously in Nebraska for ninety days immediately prior to  
3 foaling, except that such ninety-day period may be reduced to  
4 thirty days in the case of a mare in foal which is purchased at a  
5 nationally recognized thoroughbred or quarter horse blood stock  
6 sale, the name and pedigree of the mare being listed in the sale  
7 catalog, and which is brought into this state and remains in this  
8 state for thirty days immediately prior to foaling.

9 The requirement that a dam shall be continuously in  
10 Nebraska for either ninety days or thirty days, as specified in  
11 subdivision (2)(c) of this section, shall not apply to a dam which  
12 is taken outside of Nebraska to be placed for sale at a nationally  
13 recognized thoroughbred or quarter horse blood stock sale, the name  
14 and pedigree of the mare being listed in the sale catalog, or for  
15 the treatment of an extreme sickness or injury, if written notice  
16 of such proposed sale or treatment is provided to the secretary of  
17 the commission within three days of the date such horse is taken  
18 out of the state.

19 The commission may designate official registrars for the  
20 purpose of registration and to certify the eligibility of  
21 Nebraska-bred horses. An official registrar shall perform such  
22 duties in accordance with policies and procedures adopted and  
23 promulgated by the commission in the current rules and regulations  
24 of the commission. The commission may authorize the official  
25 registrar to collect specific fees as would reasonably compensate  
26 the registrar for expenses incurred in connection with registration  
27 of Nebraska-bred horses. The amount of such fee or fees shall be  
1 established by the commission and shall not be changed without  
2 commission approval. Fees shall not exceed one hundred dollars per  
3 horse.

4 Any decision or action taken by the official registrar

5 shall be subject to review by the commission or may be taken up by  
6 the commission on its own initiative.".

### GENERAL FILE

**LEGISLATIVE RESOLUTION 8CA.** Senator Chambers renewed his pending amendment, FA33, found on page 599.

Senator Chambers moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 27:

Aguilar	Flood	Kruse	Raikes	Synowiecki
Brashear	Foley	Langemeier	Redfield	Thompson
Byars	Friend	Louden	Schrock	Wehrbein
Engel	Hudkins	McDonald	Smith	
Erdman	Janssen	Mines	Stuhr	
Fischer	Kremer	Pedersen, Dw.	Stuthman	

Present and not voting, 13:

Beutler	Combs	Cunningham	Pahls	Schimek
Brown	Cornett	Jensen	Preister	
Burling	Cudaback	Johnson	Price	

Excused and not voting, 8:

Baker	Connealy	Howard	Landis
Bourne	Heidemann	Kopplin	Pederson, D.

The Chambers amendment lost with 1 aye, 27 nays, 13 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, FA34, found on page 599.

Senator Chambers moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 26:

Brashear	Flood	Kruse	Redfield	Thompson
Byars	Foley	Langemeier	Schrock	Wehrbein
Cornett	Friend	Louden	Smith	
Cunningham	Heidemann	McDonald	Stuhr	
Erdman	Hudkins	Mines	Stuthman	
Fischer	Kremer	Raikes	Synowiecki	

Present and not voting, 12:

Aguilar	Burling	Jensen	Preister
Beutler	Combs	Johnson	Price
Brown	Cudaback	Pahls	Schimek

Excused and not voting, 10:

Baker	Connealy	Howard	Kopplin	Pedersen, Dw.
Bourne	Engel	Janssen	Landis	Pederson, D.

The Chambers amendment lost with 1 aye, 26 nays, 12 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Pending.

### **AMENDMENT - Print in Journal**

Senator Redfield filed the following amendment to LB 40A:  
AM1259

- 1 1. Strike the original section and insert the following
- 2 new sections:
- 3 "Section 1. There is hereby appropriated (1) \$1,500,000
- 4 from the Affordable Housing Trust Fund for FY2005-06 and (2)
- 5 \$2,000,000 from the Affordable Housing Trust Fund for FY2006-07 to
- 6 the Department of Economic Development, for Program 601, to aid in
- 7 carrying out the provisions of Legislative Bill 40, Ninety-ninth
- 8 Legislature, First Session, 2005.
- 9 There is included in the appropriation to this program
- 10 for FY2005-06 \$1,500,000 Cash Funds for state aid, which shall only
- 11 be used for such purpose. There is included in the appropriation
- 12 to this program for FY2006-07 \$2,000,000 Cash Funds for state aid,
- 13 which shall only be used for such purpose.

14 No expenditures for permanent and temporary salaries and  
15 per diems for state employees shall be made from funds appropriated  
16 in this section.

17 Sec. 2. There is hereby appropriated (1) \$2,000,000 from  
18 the Behavioral Health Services Fund for FY2005-06 and (2)  
19 \$2,000,000 from the Behavioral Health Services Fund for FY2006-07  
20 to the Department of Health and Human Services Finance and Support,  
21 for Program 38, to aid in carrying out the provisions of  
22 Legislative Bill 40, Ninety-ninth Legislature, First Session, 2005.

23 No expenditures for permanent and temporary salaries and  
24 per diems for state employees shall be made from funds appropriated  
1 in this section.

2 There is included in the appropriation to this program  
3 for FY2005-06 \$2,000,000 Cash Funds for state aid, which shall only  
4 be used for such purpose. There is included in the appropriation  
5 to this program for FY2006-07 \$2,000,000 Cash Funds for state aid,  
6 which shall only be used for such purpose.

7 Sec. 3. There is hereby appropriated \$100,000 from the  
8 Behavioral Health Services Fund for FY2005-06 to the Department of  
9 Health and Human Services Finance and Support, for Program 38, to  
10 aid in carrying out the provisions of Legislative Bill 40,  
11 Ninety-ninth Legislature, First Session, 2005.

12 No expenditures for permanent and temporary salaries and  
13 per diems for state employees shall be made from funds appropriated  
14 in this section.

15 There is included in the appropriation to this program  
16 for FY2005-06 \$100,000 Cash Funds for state aid, which shall only  
17 be used for such purpose.

18 Funds appropriated in this section shall only be used for  
19 housing-related assistance for very low-income adults with serious  
20 mental illness. The Division of Behavioral Health Services of the  
21 Department of Health and Human Services shall manage and distribute  
22 such funds based upon a formula established by the division, in  
23 consultation with regional behavioral health authorities and the  
24 Department of Health and Human Services Finance and Support, in a  
25 manner consistent with and reasonably calculated to promote the  
26 purposes of the public behavioral health system provided in section  
27 71-803.

1 The Division of Behavioral Health Services of the  
2 Department of Health and Human Services shall contract with each  
3 regional behavioral health authority for the provision of such  
4 assistance. Each regional behavioral health authority may contract  
5 with qualifying public, private, or nonprofit entities for the  
6 provision of such assistance.

7 For purposes of this section (1) housing-related  
8 assistance means rental payments, utility payments, security and  
9 utility deposits, and other related costs and payments, (2) very  
10 low-income means a household income of fifty percent or less of the  
11 applicable median family income estimate as established by the

12 United States Department of Housing and Urban Development, and (3)  
13 adult with serious mental illness means a person eighteen years of  
14 age or older who has, or at any time during the immediately  
15 preceding twelve months has had, a diagnosable mental, behavioral,  
16 or emotional disorder of sufficient duration to meet diagnostic  
17 criteria identified in the most recent edition of the Diagnostic  
18 and Statistical Manual of Mental Disorders and which has resulted  
19 in functional impairment that substantially interferes with or  
20 limits one or more major life functions. Serious mental illness  
21 does not include DSM V codes, substance abuse disorders, or  
22 developmental disabilities unless such conditions exist  
23 concurrently with a diagnosable serious mental illness.

24 Sec. 4. There is hereby appropriated \$1,845,000 from the  
25 Behavioral Health Services Fund for FY2005-06 to the Department of  
26 Health and Human Services Finance and Support, for Program 38, to  
27 aid in carrying out the provisions of Legislative Bill 40,  
1 Ninety-ninth Legislature, First Session, 2005.

2 No expenditures for permanent and temporary salaries and  
3 per diems for state employees shall be made from funds appropriated  
4 in this section.

5 There is included in the appropriation to this program  
6 for FY2005-06 \$1,845,000 Cash Funds for state aid, which shall only  
7 be used for such purpose.

8 Funds appropriated in this section shall be distributed  
9 to each regional behavioral health authority on a per capita basis  
10 no later than thirty days after receipt of such funds and shall  
11 only be used for one-time funding for new construction,  
12 acquisition, or rehabilitation of housing to assist very low-income  
13 adults with serious mental illness.

14 Each regional behavioral health authority may contract  
15 with qualifying public, private, or nonprofit entities for the  
16 provision of such assistance.

17 For purposes of this section (1) very low-income means a  
18 household income of fifty percent or less of the applicable median  
19 family income estimate as established by the United States  
20 Department of Housing and Urban Development and (2) adult with  
21 serious mental illness means a person eighteen years of age or  
22 older who has, or at any time during the immediately preceding  
23 twelve months has had, a diagnosable mental, behavioral, or  
24 emotional disorder of sufficient duration to meet diagnostic  
25 criteria identified in the most recent edition of the Diagnostic  
26 and Statistical Manual of Mental Disorders and which has resulted  
27 in functional impairment that substantially interferes with or

1 limits one or more major life functions. Serious mental illness  
2 does not include DSM V codes, substance abuse disorders, or  
3 developmental disabilities unless such conditions exist  
4 concurrently with a diagnosable serious mental illness.

5 Sec. 5. Since an emergency exists, this act takes effect  
6 when passed and approved according to law."

**MESSAGES FROM THE GOVERNOR**

April 18, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed to the Coordinating Commission for Postsecondary Education.

**APPOINTEE:**

Timothy D. Hodges, 11420 S 199th Street, Gretna NE 68028

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/  
Enclosure

April 18, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed to the Commission for the Deaf and Hard of Hearing.

**APPOINTEE:**

Luana Duennerman, 4140 S 20th Street, Lincoln NE 68502

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/

Enclosure

April 19, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was reappointed to the Commission of Industrial Relations.

APPOINTEE:

Jeffrey L. Orr, 1708 W 35th, Kearney NE 68847

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/  
Enclosure

April 19, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed to the Boiler Safety Code Advisory Board.

APPOINTEE:

Charles Cole, 3651 F Road, Otoe NE 68417

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/  
Enclosure

### **VISITORS**

Visitors to the Chamber were 94 fourth-grade students and teachers from Pawnee Elementary School, Omaha; Linda Olson from O'Neill; and 11 fourth-grade students and teacher from Howells Community Catholic School.

Upon adjournment the Speaker introduced a group from the Nebraska Association of Former State Legislators.

The Doctor of the Day was Dr. Mike Myers from Lincoln.

### **ADJOURNMENT**

At 3:44 p.m., on a motion by Speaker Brashear, the Legislature adjourned until 9:00 a.m., Thursday, April 21, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**SIXTY-FIFTH DAY - APRIL 21, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SIXTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, April 21, 2005

**PRAYER**

The prayer was offered by Pastor Roxie Sullivan, First Presbyterian Church, Falls City.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brashear and Friend who were excused; and Senators Brown, Engel, Landis, Dw. Pedersen, D. Pederson, Raikes, Thompson, and Wehrbein who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-fourth day was approved.

**COMMUNICATION**

Received petition from the Douglas County Board of Commissioners adopted on April 19, 2005.

**GENERAL FILE**

**LEGISLATIVE RESOLUTION 8CA.** Senator Chambers renewed his pending amendment, FA36, found on page 628.

**SENATOR JANSSEN PRESIDING****SENATOR CUDABACK PRESIDING**

Senator Chambers moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

The Chambers amendment lost with 3 ayes, 14 nays, 19 present and not

voting, and 13 excused and not voting.

The Chair declared the call raised.

Pending.

### **REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

Cole, Charles - Boiler Safety Code Advisory Board - Business and Labor

Duennerman, Luana - Commission for the Deaf and Hard of Hearing - Health and Human Services

Hodges, Timothy D. - Coordinating Commission for Postsecondary Education - Education

Orr, Jeffrey L. - Commission of Industrial Relations - Business and Labor

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

### **STANDING COMMITTEE REPORT** **Business and Labor**

**LEGISLATIVE BILL 738.** Placed on General File.

(Signed) Douglas Cunningham, Chairperson

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 83.** Introduced by Smith, 48.

WHEREAS, Steven Gunther is a member of the Gering High School speech team; and

WHEREAS, Steven competed in the National Forensic League national qualifying meet in Cheyenne, Wyoming, on April 2, 2005, where he was named the champion of U. S. Extemporaneous Speaking; and

WHEREAS, Steven will now compete in the national tournament in June in Philadelphia, Pennsylvania.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Steven Gunther on being named the champion of U. S. Extemporaneous Speaking.

2. That a copy of this resolution be sent to Steven Gunther.

Laid over.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 689, 689A, and 709.

ER9032

Enrollment and Review Change to LB 709

The following changes, required to be reported for publication in the Journal, have been made:

1. In lieu of the Flood amendment, FA168, in the Erdman amendment, AM1249, on page 1, line 16, "and" has been struck; and in line 17 "; and (g) alternatives to increase federal funding for services in order to reduce dependence on General Funds and maintain or increase the total amount of funding for such services, and the possible utilization of national consultants to assist in the consideration of such alternatives" has been inserted before the period.

(Signed) Michael Flood, Chairperson

**GENERAL FILE**

**LEGISLATIVE RESOLUTION 8CA.** Senator Chambers renewed his pending amendment, FA37, found on page 629.

Senator Chambers moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

The Chambers amendment lost with 2 ayes, 16 nays, 21 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, FA38, found on page 629.

Senator Chambers moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 20:

Byars	Fischer	Jensen	Louden	Smith
Connealy	Flood	Kopplin	McDonald	Stuhr
Cunningham	Heidemann	Kremer	Mines	Stuthman
Erdman	Hudkins	Kruse	Schrock	Wehrbein

Present and not voting, 16:

Baker	Cornett	Johnson	Price
Bourne	Cudaback	Pahls	Raikes
Burling	Howard	Pederson, D.	Redfield
Combs	Janssen	Preister	Synowiecki

Excused and not voting, 12:

Aguilar	Brown	Friend	Pedersen, Dw.
Beutler	Engel	Landis	Schimek
Brashear	Foley	Langemeier	Thompson

The Chambers amendment lost with 1 aye, 20 nays, 16 present and not voting, and 12 excused and not voting.

The Chair declared the call raised.

Pending.

### **VISITORS**

Visitors to the Chamber were 50 full-time employees of the 92nd Troop Command of the Nebraska Army National Guard; 72 fourth-grade students and teachers from Hillside Elementary School, Omaha; 50 fourth-grade students and teachers from St. Gerald School, Ralston; 8 guests from Prairie Village, Columbus; 45 kindergarten through eighth-grade students and teacher from District 20, Norfolk; and 13 fourth- and fifth-grade students and teacher from District 22 School, Lexington.

### **RECESS**

At 12:06 p.m., on a motion by Senator Combs, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

### **ROLL CALL**

The roll was called and all members were present except Senators Brashear and Friend who were excused; and Senators Aguilar, Brown, Cunningham,

Engel, Erdman, Landis, Louden, McDonald, Mines, D. Pederson, and Synowiecki who were excused until they arrive.

## RESOLUTION

### LEGISLATIVE RESOLUTION 84. Introduced by Foley, 29.

WHEREAS, the Nebraska State Chess Association is an organization that was founded in 1898; and

WHEREAS, it is the mission of the Nebraska State Chess Association to promote chess at all age and ability levels throughout the State of Nebraska; and

WHEREAS, the Nebraska State Chess Association will co-sponsor four championship chess tournaments this year; and

WHEREAS, the Individual Scholastic Chess Championship was held on February 12, 2005, in Columbus, Nebraska; and

WHEREAS, John Hurdle was awarded the title of "2005 Nebraska Primary Chess Champion"; and

WHEREAS, Albert Zhou was awarded the title of "2005 Nebraska Middle School/Junior High Chess Champion".

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates and honors John Hurdle and Albert Zhou for their championship titles.

2. That a copy of this resolution be sent to John Hurdle and Albert Zhou.

Laid over.

## GENERAL FILE

**LEGISLATIVE BILL 70.** Senator Jensen asked unanimous consent to withdraw his pending amendment, AM1106, found on page 1140 and considered on page 1222, and replace it with his substitute amendment, AM1286. No objections. So ordered.

AM1286

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. (1) The Nebraska Motorcycle Helmet Task
- 4 Force is created.
- 5 (2) The task force shall consists of ten individuals
- 6 appointed by the Governor with the consent of a majority of the
- 7 members of the Legislature. The members shall include, but not be
- 8 limited to, a representative of insurance companies licensed to
- 9 sell insurance in Nebraska, a representative of the Department of
- 10 Motor Vehicles, a representative of individuals licensed to
- 11 practice medicine and surgery in Nebraska, a representative of the
- 12 Department of Economic Development, a representative of the
- 13 University of Nebraska with expertise in statistics, a
- 14 representative of the Department of Roads, and a representative of

15 the Nebraska State Patrol.

16 (3) The task force shall examine, but not be limited to,  
17 the following:

18 (a) The most recent information and studies related to  
19 helmet laws;

20 (b) The relationship between the repeal of existing  
21 helmet laws and the occurrence of major injuries and death  
22 resulting from motorcycle accidents; and

23 (c) The economic effects of having a helmet law versus  
24 not having a helmet law.

1 (4) The task force shall report its findings to the  
2 Transportation and Telecommunications Committee of the Legislature  
3 on or before December 30, 2005.

4 (5) The task force shall terminate on December 31, 2005.

5 Sec. 2. The provisions of subdivision (13) of section  
6 60-4,182 with respect to motorcycle or moped protective helmet  
7 violations and sections 60-6,278 to 60-6,282 shall not be enforced  
8 in the month of August 2005."

Senator Jensen asked unanimous consent to withdraw his pending amendment, AM1286, found in this day's Journal, and replace it with his substitute amendment, AM1289. No objections. So ordered.

AM1289

1 1. Strike the original sections and all amendments

2 thereto and insert the following new sections:

3 "Section 1. (1) The Nebraska Motorcycle Helmet Advisory  
4 Task Force is created.

5 (2) The task force shall consist of ten individuals, five  
6 appointed by the Chairperson of the Transportation and  
7 Telecommunications Committee of the Legislature and five appointed  
8 by the Chairperson of the Health and Human Services Committee of  
9 the Legislature. The members shall include, but not be limited to,  
10 a representative of insurance companies licensed to sell insurance  
11 in Nebraska, a representative of the Department of Motor Vehicles,  
12 a representative of individuals licensed to practice medicine and  
13 surgery in Nebraska, a representative of the Department of Economic  
14 Development, a representative of the University of Nebraska with  
15 expertise in statistics, a representative of the Department of  
16 Roads, and a representative of the Nebraska State Patrol.

17 (3) The task force shall examine, but not be limited to,  
18 the following:

19 (a) The most recent information and studies related to  
20 helmet laws;

21 (b) The relationship between the repeal of existing  
22 helmet laws and the occurrence of major injuries and death  
23 resulting from motorcycle accidents; and

24 (c) The economic effects of having a helmet law versus  
1 not having a helmet law.

2 (4) The task force shall report its findings to the

3 Transportation and Telecommunications Committee of the Legislature  
 4 and the Health and Human Services Committee of the Legislature on  
 5 or before December 30, 2005.  
 6 (5) The task force shall terminate on December 31, 2005.  
 7 Sec. 2. The provisions of subdivision (13) of section  
 8 60-4,182 with respect to motorcycle or moped protective helmet  
 9 violations and sections 60-6,278 to 60-6,282 shall not be enforced  
 10 in the month of August 2005.".

Senator Chambers offered the following amendment to the Jensen pending amendment:

FA179

Amend AM1289

1. On page 1, strike lines 3-24; and in line 2 strike "sections" and insert "section".
2. On page 2, strike lines 1-6.

### **SENATOR JANSSEN PRESIDING**

### **SENATOR CUDABACK PRESIDING**

Senator Chambers moved for a call of the house. The motion prevailed with 25 ayes, 1 nays, and 23 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 15:

Byars	Howard	Kruse	Pederson, D.	Schimek
Chambers	Janssen	Louden	Preister	Synowiecki
Cornett	Johnson	Pahls	Redfield	Thompson

Voting in the negative, 13:

Bourne	Fischer	Landis	Schrock	Wehrbein
Connealy	Foley	Langemeier	Smith	
Cunningham	Hudkins	McDonald	Stuthman	

Present and not voting, 16:

Baker	Combs	Jensen	Pedersen, Dw.
Beutler	Cudaback	Kopplin	Price
Brown	Engel	Kremer	Raikes
Burling	Erdman	Mines	Stuhr

Excused and not voting, 5:

Aguilar	Brashear	Flood	Friend	Heidemann
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The Chambers amendment lost with 15 ayes, 13 nays, 16 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

### **SENATOR JANSSEN PRESIDING**

Senator Chambers offered the following motion:  
Bracket until May 17, 2005.

Pending.

### **SELECT COMMITTEE REPORTS** **Enrollment and Review**

#### **Correctly Engrossed**

The following bills were correctly engrossed: LBs 38 and 682.

(Signed) Michael Flood, Chairperson

### **RESOLUTION**

#### **LEGISLATIVE RESOLUTION 85.** Introduced by Brown, 6.

WHEREAS, the members of the Creighton Preparatory School Academic Decathlon team devoted thousands of hours towards preparation for the district competition in January; and

WHEREAS, the Creighton Preparatory Academic Decathlon team was the top-seeded team going into the state championship; and

WHEREAS, on February 19, 2005, at Creighton University, the Creighton Preparatory School Academic Decathlon team won the state championship, thereby securing a spot at the national competition as Nebraska's representative; and

WHEREAS, the team represented the State of Nebraska during national competition in Chicago during the week of April 11 through 16, 2005; and

WHEREAS, the Creighton Preparatory School Academic Decathlon team placed second in their division during the national competition, thereby bringing pride to their school, their city, and their state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates the members of the 2004-2005 Creighton Preparatory School Academic Decathlon Team.

2. That a copy of this resolution be presented to Creighton Preparatory School Academic Decathlon Head Coach Jeannie Brayman.

Laid over.

**AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 70:

FA175

On page 17, line 18 after the period add "Specifications for the eye protection alternatives shall be determined by the Nebraska state patrol"

Senator Beutler filed the following amendment to LB 70:

FA176

On page 17, strike lines 5 through 8

Senator Beutler filed the following amendment to LB 70:

FA177

On lines 16, 17, and 18, page 17 strike "or a windshield on the motorcycle that protects the operators horizontal line of vision in all operating positions"

Senator Smith filed the following amendment to LB 70:

FA178

Page 2, line 28 strike "eight" and insert "seven"

Senator Jensen filed the following amendment to LB 70:

AM1270

- 1 1. On page 13, line 4, strike "seventy-five" and insert
- 2 "one hundred seventy-five"; and in line 5 strike "one", show as
- 3 stricken, and insert "two".

Senator Jensen filed the following amendment to LB 70:

AM1276

- 1 1. On page 12, line 6, strike "and" and show as
- 2 stricken; strike beginning with "except" in line 8 through
- 3 "presents" in line 10, show the old matter as stricken, and insert
- 4 "and presented"; in line 11 strike "(a)" and insert "(1)"; in line
- 5 13 strike "(b)" and insert "(2)"; and strike line 15, show the old
- 6 matter as stricken, and insert "2007. An examiner shall waive the
- 7 required examination, including the actual operation of a
- 8 motorcycle and the motorcycle safety course, if".
- 9 2. On page 16, strike the new matter and reinstate the
- 10 stricken matter; and in line 8 after "wearing" insert "eye
- 11 protection and".
- 12 3. On page 17, strike lines 1 through 18 and insert the
- 13 following new subsection:
- 14 "(2) For purposes of this section, eye protection means
- 15 glasses or goggles that cover and are securely fixed to the orbital
- 16 region of the operator's face, a protective face shield attached to
- 17 a protective helmet, or a windshield on the motorcycle that
- 18 protects the operator's horizontal line of vision in all operating
- 19 positions.".

Senator Jensen filed the following amendment to LB 70:  
AM1123

- 1 1. On page 16, line 23; and page 17, line 7, strike "and
- 2 (c)" and insert "(c) carries proof of insurance for medical
- 3 payments with limits of at least forty-five thousand dollars for
- 4 bodily injury for each person in any one accident, and (d)".
- 5 2. On page 17, line 9, after "requirements" insert "and
- 6 the requirements to carry proof of insurance".

Senator Jensen filed the following amendment to LB 70:  
AM1267

- 1 1. On page 2, line 28, strike "eight" and insert "ten".

Senator Foley filed the following amendment to LB 161:  
AM1253

(Amendments to Final Reading copy)

- 1 1. On page 5, line 2, strike "front footage of" and
- 2 "upon" and after "property" insert "owners"; in line 16 strike "the
- 3 front footage of" and after "property" insert "owners"; and in line
- 4 17 strike "upon".

## VISITORS

Visitors to the Chamber were 26 fourth-grade students and teacher from Battle Creek; 13 fourth-grade students and teacher from Humphrey; and 42 fourth-grade students and teachers from Westside Elementary School, Norfolk.

## MOTION - Adjournment

Senator Byars moved to adjourn until 9:00 a.m., Friday, April 22, 2005.

Senator Chambers moved for a call of the house. The motion prevailed with 18 ayes, 2 nays, and 29 not voting.

Senator Chambers requested a roll call vote on the motion to adjourn.

Senator Bourne requested the roll call vote be taken in reverse order.

Voting in the affirmative, 22:

Bourne	Cudaback	Janssen	Louden	Schrock
Byars	Cunningham	Kopplin	McDonald	Smith
Combs	Engel	Kremer	Pahls	
Connealy	Fischer	Kruse	Pederson, D.	
Cornett	Howard	Landis	Raikes	

Voting in the negative, 16:

Baker	Erdman	Johnson	Redfield
Beutler	Foley	Mines	Schimek
Burling	Hudkins	Pedersen, Dw.	Synowiecki
Chambers	Jensen	Preister	Thompson

Present and not voting, 5:

Brown	Price	Stuhr	Stuthman	Wehrbein
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Excused and not voting, 6:

Aguilar	Flood	Heidemann
Brashear	Friend	Langemeier

The Byars motion to adjourn prevailed with 22 ayes, 16 nays, 5 present and not voting, and 6 excused and not voting, and at 4:03 p.m., the Legislature adjourned until 9:00 a.m., Friday, April 22, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**SIXTY-SIXTH DAY - APRIL 22, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SIXTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, April 22, 2005

**PRAYER**

The prayer was offered by Pastor Greg Volzke, Christ Lutheran Church, Juniata.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Aguilar, Brashear, Hudkins, and Landis who were excused; and Senators Byars, Dw. Pedersen, Synowiecki, and Wehrbein who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-fifth day was approved.

**REPORT**

The following report was received by the Legislature:

**Roads, Department of**

State Highway Commission Quarterly Report

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of April 21, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Abboud, Chris, Public Affairs Group  
Brain Injury Association of America

Kelley, Michael, of Kelley & Lehan, PC  
Select Management Resources, LLC

Kramer, David J.  
Republican Party, Nebraska (Withdrawn 04/14/2005)

Lieurance, James  
Takeda Pharmaceuticals America

O'Hara, Lindsay & Associates, Inc.  
Proctor & Gamble

Quandahl, Mark  
Republican Party, Nebraska

Roof, Dale  
Takeda Pharmaceuticals America (Withdrawn 04/15/2005)

### **BILLS ON FINAL READING**

The following bill was read and put upon final passage:

#### **LEGISLATIVE BILL 193.** With Emergency.

A BILL FOR AN ACT relating to juvenile services; to amend sections 43-2404.01 and 43-2404.02, Reissue Revised Statutes of Nebraska; to transfer oversight of the County Juvenile Services Aid Program to the Nebraska Commission on Law Enforcement and Criminal Justice; to change requirements of the program; to provide an operative date; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 41:

Baker	Cudaback	Howard	McDonald	Schrock
Beutler	Cunningham	Janssen	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pederson, D.	Stuthman
Burling	Fischer	Kopplin	Preister	Thompson
Chambers	Flood	Kremer	Price	
Combs	Foley	Kruse	Raikes	
Connealy	Friend	Langemeier	Redfield	
Cornett	Heidemann	Louden	Schimek	

Voting in the negative, 0.

Excused and not voting, 8:

Aguilar	Byars	Landis	Synowiecki
Brashear	Hudkins	Pedersen, Dw.	Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 274 with 35 ayes, 3 nays, 3 present and not voting, and 8 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 274.**

A BILL FOR AN ACT relating to motor vehicles; to amend sections 18-1214, 39-2215, 44-1545, 44-3521, 60-102, 60-104, 60-106, 60-108, 60-505.02, 60-653, 60-683, 60-685, 60-697, 60-6,100, 60-6,162, 60-6,226, 60-6,246, 60-6,255, 60-6,298, 60-6,309, 60-6,320, 60-6,347, 60-6,355, 60-6,364, 60-6,375, 60-1303, 60-1306, 60-1307, 60-1401.02, 60-1411.02, 60-1515, 60-1801, 60-1803, 60-1804, 60-1807, 60-1901, 60-1902, 60-2507, 60-2701, 66-6,103, 75-305, 77-1342, 77-2701.24, 77-2704.44, 77-27,143, 77-4501, 77-5403, and 81-1023, Reissue Revised Statutes of Nebraska, sections 13-324, 13-518, 13-2814, 18-1736, 18-1737, 23-186, 66-482, 66-686, 75-363, 77-2703, 77-2703.01, 77-4103, 77-5007, 81-2005, and 89-187, Revised Statutes Supplement, 2004, and section 60-465, Reissue Revised Statutes of Nebraska, as amended by section 4, Legislative Bill 76, Ninety-ninth Legislature, First Session, 2005; to adopt the Motor Vehicle Registration Act; to change and eliminate provisions relating to motor vehicle registration; to transfer motor vehicle tax provisions; to harmonize provisions; to repeal the original sections; and to outright repeal sections 60-301 to 60-304, 60-305.01 to 60-305.04, 60-305.06, 60-305.08, 60-306, 60-308 to 60-312.01, 60-314 to 60-315.01, 60-318 to 60-325, 60-326.01, 60-328, 60-328.02 to 60-332, 60-334, 60-335, 60-336 to 60-339, 60-343 to 60-364, 60-6,321 to 60-6,333, and 60-3001 to 60-3009, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Baker	Cornett	Heidemann	Louden	Redfield
Beutler	Cudaback	Howard	McDonald	Schimek
Bourne	Cunningham	Janssen	Mines	Schrock
Brown	Engel	Jensen	Pahls	Smith
Burling	Erdman	Johnson	Pedersen, Dw.	Stuhr
Byars	Fischer	Kopplin	Pederson, D.	Stuthman
Chambers	Flood	Kremer	Preister	Synowiecki
Combs	Foley	Kruse	Price	Thompson
Connealy	Friend	Langemeier	Raikes	

Voting in the negative, 0.

Excused and not voting, 5:

Aguilar	Brashear	Hudkins	Landis	Wehrbein
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 276 with 39 ayes, 3 nays, 2 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 276.**

A BILL FOR AN ACT relating to motor vehicles; to amend sections 42-371, 52-1801, 60-302, 60-314, 60-6,309, 60-6,375, 60-1411.02, 60-1417, 60-1419, 60-3004, and 75-386, Reissue Revised Statutes of Nebraska, sections 13-910, 23-186, 81-8,219, and 81-2004.02, Revised Statutes Supplement, 2004, and sections 2A-104 and 9-311, Uniform Commercial Code; to adopt the Motor Vehicle Certificate of Title Act; to provide penalties; to harmonize provisions; to repeal the original sections; and to outright repeal sections 60-102 to 60-111.01, 60-112 to 60-127, and 60-129 to 60-169, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Baker	Cornett	Heidemann	Louden	Redfield
Beutler	Cudaback	Howard	McDonald	Schimek
Bourne	Cunningham	Janssen	Mines	Schrock
Brown	Engel	Jensen	Pahls	Smith
Burling	Erdman	Johnson	Pedersen, Dw.	Stuhr
Byars	Fischer	Kopplin	Pederson, D.	Stuthman
Chambers	Flood	Kremer	Preister	Synowiecki
Combs	Foley	Kruse	Price	Thompson
Connealy	Friend	Langemeier	Raikes	

Voting in the negative, 0.

Excused and not voting, 5:

Aguilar	Brashear	Hudkins	Landis	Wehrbein
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 351.** With Emergency.

A BILL FOR AN ACT relating to the Environmental Quality Council; to amend section 81-1503, Reissue Revised Statutes of Nebraska; to change membership provisions; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 42:

Baker	Cornett	Heidemann	McDonald	Schimek
Beutler	Cudaback	Howard	Mines	Schrock
Bourne	Cunningham	Janssen	Pahls	Smith
Brown	Engel	Jensen	Pedersen, Dw.	Stuhr
Burling	Erdman	Johnson	Pederson, D.	Synowiecki
Byars	Fischer	Kopplin	Preister	Thompson
Chambers	Flood	Kremer	Price	
Combs	Foley	Kruse	Raikes	
Connealy	Friend	Langemeier	Redfield	

Voting in the negative, 0.

Present and not voting, 2:

Louden	Stuthman
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Excused and not voting, 5:

Aguilar	Brashear	Hudkins	Landis	Wehrbein
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 361 with 40 ayes, 2 nays, 2 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 361.** With Emergency.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 20-325, 20-327, 29-3303, 71-168, 71-168.02, 71-6736, 76-250, and 76-802, Reissue Revised Statutes of Nebraska, and sections 20-326, 20-330, 24-517, 25-21,280, and 84-712.05, Revised Statutes Supplement, 2004; to adopt the Patient Safety Improvement Act; to provide requirements and prohibit certain acts related to DNA; to provide for filings related to dissolution of marriage; to change provisions relating to discriminatory housing practices, county court jurisdiction, immunity for certain educational personnel, and judicial orders; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide severability; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 44:

Baker	Cornett	Heidemann	Louden	Redfield
Beutler	Cudaback	Howard	McDonald	Schimek
Bourne	Cunningham	Janssen	Mines	Schrock
Brown	Engel	Jensen	Pahls	Smith
Burling	Erdman	Johnson	Pedersen, Dw.	Stuhr
Byars	Fischer	Kopplin	Pederson, D.	Stuthman
Chambers	Flood	Kremer	Preister	Synowiecki
Combs	Foley	Kruse	Price	Thompson
Connealy	Friend	Langemeier	Raikes	

Voting in the negative, 0.

Excused and not voting, 5:

Aguilar          Brashear          Hudkins          Landis          Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 389.**

A BILL FOR AN ACT relating to health care; to adopt the Health Care Prompt Payment Act.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Baker	Cunningham	Janssen	Mines	Schrock
Beutler	Engel	Jensen	Pahls	Smith
Brown	Erdman	Johnson	Pedersen, Dw.	Stuhr
Burling	Fischer	Kopplin	Pederson, D.	Stuthman
Byars	Flood	Kremer	Preister	Synowiecki
Combs	Foley	Kruse	Price	Thompson
Connealy	Friend	Langemeier	Raikes	
Cornett	Heidemann	Louden	Redfield	
Cudaback	Howard	McDonald	Schimek	

Voting in the negative, 0.

Present and not voting, 2:

Bourne          Chambers

Excused and not voting, 5:

Aguilar          Brashear          Hudkins          Landis          Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 389A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 389, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Baker	Cudaback	Howard	McDonald	Schrock
Beutler	Cunningham	Janssen	Mines	Smith
Brown	Engel	Jensen	Pahls	Stuhr
Burling	Erdman	Johnson	Pedersen, Dw.	Stuthman
Byars	Fischer	Kopplin	Pederson, D.	Synowiecki
Chambers	Flood	Kremer	Preister	Thompson
Combs	Foley	Kruse	Price	
Connealy	Friend	Langemeier	Raikes	
Cornett	Heidemann	Louden	Redfield	

Voting in the negative, 0.

Present and not voting, 2:

Bourne                Schimek

Excused and not voting, 5:

Aguilar                Brashear                Hudkins                Landis                Wehrbein

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 503 with 36 ayes, 2 nays, 6 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 503. With Emergency.**

A BILL FOR AN ACT relating to retirement; to amend sections 72-1238, 72-1239, 72-1243, 79-902, 79-906, 79-958, and 84-1309.01, Reissue Revised Statutes of Nebraska, and sections 23-2309.01, 23-2310.05, 23-2312, 24-704, 79-1028, 81-2017, 81-2021, 84-1305.01, 84-1310.01, 84-1311.03, 84-1502, 84-1503, 84-1503.03, and 84-1512, Revised Statutes Supplement, 2004; to change contribution and investment provisions; to change provisions relating to membership, per diems, and powers and duties of the Nebraska Investment Council; to change provisions relating to the Public Employees Retirement Board and director of the retirement systems; to change school employee retirement calculations and tax levy provisions; to provide for an internal auditor; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Baker	Cudaback	Howard	McDonald	Schimek
Beutler	Cunningham	Janssen	Mines	Schrock
Bourne	Engel	Jensen	Pahls	Smith
Brown	Erdman	Johnson	Pedersen, Dw.	Stuhr
Burling	Fischer	Kopplin	Pederson, D.	Stuthman
Byars	Flood	Kremer	Preister	Synowiecki
Combs	Foley	Kruse	Price	Thompson
Connealy	Friend	Langemeier	Raikes	
Cornett	Heidemann	Louden	Redfield	

Voting in the negative, 0.

Present and not voting, 1:

Chambers

Excused and not voting, 5:

Aguilar	Brashear	Hudkins	Landis	Wehrbein
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 503A.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 503, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Baker	Cornett	Howard	McDonald	Schimek
Beutler	Cudaback	Janssen	Mines	Schrock
Bourne	Cunningham	Jensen	Pahls	Smith
Brown	Engel	Johnson	Pedersen, Dw.	Stuhr
Burling	Erdman	Kopplin	Pederson, D.	Stuthman
Byars	Fischer	Kremer	Preister	Synowiecki
Chambers	Flood	Kruse	Price	Thompson
Combs	Foley	Langemeier	Raikes	
Connealy	Friend	Louden	Redfield	

Voting in the negative, 0.

Present and not voting, 1:

Heidemann

Excused and not voting, 5:

Aguilar	Brashear	Hudkins	Landis	Wehrbein
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 739 with 36 ayes, 3 nays, 5 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 739.**

A BILL FOR AN ACT relating to the Employment Security Law; to amend sections 48-601, 48-602, 48-603.01, 48-624, 48-625, 48-627, 48-628, 48-649, 48-652, and 48-669, Reissue Revised Statutes of Nebraska; to provide for an average combined tax rate and an emergency solvency surcharge; to change provisions relating to the average weekly wage, wages subject to tax, computation of benefits, eligibility conditions, and combined tax rate; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Baker	Cudaback	Howard	McDonald	Schimek
Beutler	Cunningham	Janssen	Mines	Schrock
Bourne	Engel	Jensen	Pahls	Smith
Brown	Erdman	Johnson	Pedersen, Dw.	Stuhr
Burling	Fischer	Kopplin	Pederson, D.	Stuthman
Byars	Flood	Kremer	Preister	Synowiecki
Combs	Foley	Kruse	Price	Thompson
Connealy	Friend	Langemeier	Raikes	
Cornett	Heidemann	Louden	Redfield	

Voting in the negative, 1:

Chambers

Excused and not voting, 5:

Aguilar	Brashear	Hudkins	Landis	Wehrbein
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### GENERAL FILE

**LEGISLATIVE RESOLUTION 8CA.** Senator Chambers renewed his pending amendment, FA39, found on page 629.

Senator Chambers moved for a call of the house. The motion prevailed with 12 ayes, 1 nay, and 36 not voting.

The Chambers amendment lost with 3 ayes, 31 nays, 11 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, FA40, found on page 629.

### SENATOR SCHIMEK PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 11 ayes, 1 nay, and 37 not voting.

The Chambers amendment lost with 9 ayes, 23 nays, 11 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, FA41, found on page 629.

**SENATOR CUDABACK PRESIDING**

Pending.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**LEGISLATIVE BILL 673.** Placed on Select File as amended.

(E & R amendment, AM7086, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 673A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

**STANDING COMMITTEE REPORT**  
**Education**

**LEGISLATIVE BILL 146.** Placed on General File as amended.

Standing Committee amendment to LB 146:

AM1235

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Sections 1 to 9 of this act shall be known
- 4 and may be cited as the Nursing Faculty Student Loan Act.
- 5 Sec. 2. For purposes of the Nursing Faculty Student Loan
- 6 Act:
- 7 (1) Department means the Department of Health and Human
- 8 Services Regulation and Licensure; and
- 9 (2) Masters or doctoral accredited nursing program means
- 10 a postgraduate nursing education program that has been accredited
- 11 by a nationally recognized accrediting agency and offered by a
- 12 public or private postsecondary educational institution in
- 13 Nebraska.
- 14 Sec. 3. To qualify for a loan under the Nursing Faculty
- 15 Student Loan Act, a student shall (1) be a resident of Nebraska,
- 16 (2) be enrolled in a masters or doctoral accredited nursing
- 17 program, and (3) agree in writing to engage in nursing instruction
- 18 in an approved nursing program offered by a public or private
- 19 postsecondary educational institution in Nebraska.
- 20 Sec. 4. Loans may be made by the department under the
- 21 Nursing Faculty Student Loan Act for educational expenses of a
- 22 qualified student who agrees in writing to engage in nursing
- 23 instruction in an approved nursing program offered by a public or
- 24 private postsecondary educational institution in Nebraska for two
- 1 years of full-time nursing instruction for each year a loan is
- 2 received, with a maximum of six years of nursing instruction in

3 Nebraska in return for three years of loans under the act. Loans  
4 shall be subject to the following conditions:  
5 (1) Loans shall be used only for educational expenses for  
6 a masters or doctoral accredited nursing program. The use of loan  
7 funds by the recipient is subject to review by the department;  
8 (2) Each loan shall be for one academic year;  
9 (3) A loan recipient shall not receive more than five  
10 thousand dollars per academic year and shall not receive more than  
11 fifteen thousand dollars under the act;  
12 (4) Loans shall be forgiven at the rate of five thousand  
13 dollars loaned per two years of full-time nursing instruction in  
14 Nebraska;  
15 (5) If a loan recipient discontinues enrollment in the  
16 masters or doctoral accredited nursing program before completing  
17 the program, he or she shall repay to the department one hundred  
18 percent of the outstanding loan principal with simple interest at a  
19 rate of one point below the prime interest rate as of the date the  
20 borrower signed the contract. Interest shall accrue as of the date  
21 the borrower signed the contract. Such repayment shall commence  
22 within six months after the date he or she discontinues enrollment  
23 and shall be completed within the number of years for which loans  
24 were awarded;  
25 (6) If, after the loan recipient completes the masters or  
26 doctoral accredited nursing program and before all of his or her  
27 loans are forgiven under the act, he or she fails to begin or  
1 ceases full-time nursing instruction pursuant to the loan  
2 agreement, he or she shall repay to the department one hundred  
3 twenty-five percent of the outstanding loan principal with simple  
4 interest at a rate of one point below the prime interest rate as of  
5 the date the borrower signed the contract. Interest shall accrue  
6 as of the date the borrower signed the contract. Such repayment  
7 shall commence within six months after the date of completion of  
8 the program or the date the loan recipient ceases full-time nursing  
9 instruction, whichever is later, and shall be completed within the  
10 number of years for which loans were awarded; and  
11 (7) Institutions which offer a masters or doctoral  
12 accredited nursing program may act as agents of the department for  
13 the distribution of loans to eligible students.  
14 Sec. 5. The Nursing Faculty Student Loan Cash Fund is  
15 created. The fund shall consist of grants, private donations, fees  
16 collected pursuant to section 6 of this act, and loan repayments  
17 under the Nursing Faculty Student Loan Act remitted by the  
18 department to the State Treasurer for credit to the fund. The fund  
19 shall be used to administer the act and for loans to qualified  
20 students pursuant to the act. The act shall be carried out with no  
21 appropriations from the General Fund. Any money in the fund  
22 available for investment shall be invested by the state investment  
23 officer pursuant to the Nebraska Capital Expansion Act and the  
24 Nebraska State Funds Investment Act.

25 Sec. 6. Beginning January 1, 2006, through December 31,  
26 2007, the Department of Health and Human Services Regulation and  
27 Licensure shall charge a fee of one dollar, in addition to any  
1 other fee, for each license renewal for a registered nurse or  
2 licensed practical nurse pursuant to section 71-1,132.20. Such fee  
3 shall be collected at the time of renewal and remitted to the State  
4 Treasurer for credit to the Nursing Faculty Student Loan Cash Fund.

5 Sec. 7. The department has the administrative  
6 responsibility to track borrowers and to develop repayment tracking  
7 and collection mechanisms. The department may contract for such  
8 services. When a loan has been forgiven pursuant to section 4 of  
9 this act, the amount forgiven may be taxable income to the borrower  
10 and the department shall provide notification of the amount  
11 forgiven to the borrower, the Department of Revenue, and the  
12 Internal Revenue Service if required by the Internal Revenue Code  
13 as defined in section 49-801.01.

14 Sec. 8. The department shall annually provide a report  
15 to the Governor and the Clerk of the Legislature on the status of  
16 the program, the status of the borrowers, and the impact of the  
17 program on the number of nursing faculty in Nebraska. Any report  
18 which includes information about borrowers shall exclude  
19 confidential information or any other information which  
20 specifically identifies a borrower.

21 Sec. 9. The department, in consultation with approved  
22 nursing programs in Nebraska, shall adopt and promulgate rules and  
23 regulations to carry out the Nursing Faculty Student Loan Act.

24 Sec. 10. Section 71-163, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 71-163. (1) The Professional and Occupational  
27 Credentialing Cash Fund is created. Except as provided in section  
1 71-172.02 and section 6 of this act, the fund shall consist of all  
2 fees, gifts, grants, and other money, excluding fines and civil  
3 penalties, received or collected by the department under sections  
4 71-162 to 71-162.05.

5 (2) The department shall use the fund for the  
6 administration and enforcement of such laws regulating the  
7 individuals and entities listed in section 71-162 except for a  
8 percentage of the fees credited to the Nebraska Regulation of  
9 Health Professions Fund pursuant to section 71-6228.

10 (3) Any money in the Professional and Occupational  
11 Credentialing Cash Fund available for investment shall be invested  
12 by the state investment officer pursuant to the Nebraska Capital  
13 Expansion Act and the Nebraska State Funds Investment Act.

14 (4) Any money in the separate fund authorized in section  
15 71-162 as it existed prior to July 1, 2004, and any money in the  
16 Acupuncturist Fund, the Athletic Trainer Fund, the Board of  
17 Registration for Environmental Health Specialists Fund, the  
18 Cosmetology Cash Fund, the Hearing Aid Fund, the Massage Therapy  
19 Fund, the Medical Nutrition Therapy Fund, the Mental Health

20 Practice Fund, the Nebraska Pharmaceutical Fund, the Nurses'  
21 Licensing Cash Fund, the Nursing Home Administration Fund, the  
22 Occupational Therapy Licensing Cash Fund, the Psychologists  
23 Licensing Fund, and the Respiratory Care Practitioners Fund, on  
24 July 1, 2004, shall be transferred to the Professional and  
25 Occupational Credentialing Cash Fund.  
26 Sec. 11. Original section 71-163, Reissue Revised  
27 Statutes of Nebraska, is repealed."

(Signed) Ron Raikes, Chairperson

## **RESOLUTIONS**

### **LEGISLATIVE RESOLUTION 86.** Introduced by Preister, 5.

PURPOSE: To examine the Workplace Safety Consultation Program and possible funding mechanisms.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Business and Labor Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **LEGISLATIVE RESOLUTION 87.** Introduced by Preister, 5.

PURPOSE: To examine and draft legislation regarding a proof of need pre-process which must be conducted on any state agencies' proposed contracts for services over fifty thousand dollars.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution and shall request input from the Health and Human Services Committee and the Appropriations Committee of the Legislature.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 588:  
FA180  
Strike Section 1.

Senator Stuhr filed the following amendment to LB 364:  
AM1293  
(Amendments to Standing Committee amendments, AM1210)  
1 1. On page 6, line 19, strike the new matter, reinstate  
2 the stricken matter, and strike "its" and show as stricken.

Senator Smith filed the following amendment to LB 70:  
FA182  
Amend AM1289  
Strike amendment 1 and insert: The provisions of subdivision (13) of section 60-4182 with respect to motorcycle or moped protective helmet violations and sections 60-6,278 to 60-6,282 shall not be enforced during the months of July and August.

**VISITORS**

Visitors to the Chamber were Simon Antes from Germany; eighth-grade class and sponsors from Dundy County School; 45 fourth-grade students and teachers from Plattsmouth; 37 fifth-grade students and teacher from Southern Valley Elementary School, Oxford; Tina Marroquin and Ken Schmieding from Seward; 16 first- through fourth-grade students and teacher from Staplehurst; 22 fourth-grade students and teacher from Stolley Park Elementary School, Grand Island; 41 fourth-grade students and teachers from Springfield; 8 seventh-grade students and sponsors from Wheatland Public Schools; and 8 students and sponsors from the Youth Rehabilitation and Training Center, Kearney.

The Doctor of the Day was Dr. Joel Travis from Albion.

**MOTION - Adjournment**

Senator Brown moved to adjourn. The motion prevailed with 17 ayes, 7 nays, 15 present and not voting, and 10 excused and not voting, and at 11:57 a.m., the Legislature adjourned until 10:00 a.m., Monday, April 25, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**SIXTY-SEVENTH DAY - APRIL 25, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SIXTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, April 25, 2005

**PRAYER**

The prayer was offered by Pastor Patrick Davis, Alegent Health Pastoral Services, Omaha.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Brown who was excused; and Senators Engel, Dw. Pedersen, and D. Pederson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-sixth day was approved.

**COMMUNICATION**

Received a copy of House Resolution No. 191 from the state of Kentucky urging the Federal Communications Commission not to preempt state do not call legislation.

**GENERAL FILE**

**LEGISLATIVE RESOLUTION 8CA.** Senator Chambers renewed his pending amendment, FA41, found on page 629 and considered on page 1273.

**SPEAKER BRASHEAR PRESIDING**

Senator Schrock offered the following motion:  
Invoke cloture on LR 8CA, pursuant to Rule 7, Section 10.

Senator Schrock moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

Senator Schrock requested a roll call vote, in reverse order, on his motion to invoke cloture.

Voting in the affirmative, 36:

Aguilar	Cudaback	Heidemann	Langemeier	Stuhr
Baker	Cunningham	Hudkins	Louden	Stuthman
Beutler	Engel	Jensen	McDonald	Synowiecki
Burling	Erdman	Johnson	Mines	Wehrbein
Byars	Fischer	Kopplin	Pedersen, Dw.	
Combs	Flood	Kremer	Raikes	
Connealy	Foley	Kruse	Schrock	
Cornett	Friend	Landis	Smith	

Voting in the negative, 7:

Chambers	Preister	Redfield	Thompson
Howard	Price	Schimek	

Present and not voting, 4:

Bourne	Brashear	Janssen	Pahls
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Excused and not voting, 2:

Brown	Pederson, D.
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The Schrock motion to invoke cloture prevailed with 36 ayes, 7 nays, 4 present and not voting, and 2 excused and not voting.

Senator Schrock requested a roll call vote on the Chambers amendment, FA41.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 42:

Aguilar	Cunningham	Hudkins	Louden	Smith
Baker	Engel	Janssen	McDonald	Stuhr
Beutler	Erdman	Jensen	Mines	Stuthman
Bourne	Fischer	Johnson	Pahls	Synowiecki
Brashear	Flood	Kopplin	Pedersen, Dw.	Thompson
Byars	Foley	Kremer	Raikes	Wehrbein
Combs	Friend	Kruse	Redfield	
Connealy	Heidemann	Landis	Schimek	
Cornett	Howard	Langemeier	Schrock	

Present and not voting, 4:

Burling            Cudaback            Preister            Price

Excused and not voting, 2:

Brown            Pederson, D.

The Chambers amendment lost with 1 aye, 42 nays, 4 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 32 ayes, 9 nays, 6 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 40.** Title read. Considered.

The Standing Committee amendment, AM0387, found on page 505, was considered.

Senator Redfield renewed the Redfield et al. pending amendment, AM1227, found on page 1209, to the Standing Committee amendment.

The Redfield et al. amendment was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Senator Beutler offered the following amendment to the Standing Committee amendment:  
AM1263

(Amendments to AM1227)

1 1. Insert the following new section:  
2 "Sec. 3. Section 68-1604, Reissue Revised Statutes of  
3 Nebraska, is amended to read:  
4 68-1604. The Homeless Shelter Assistance Trust Fund is  
5 hereby created. The fund shall include ~~the proceeds raised from~~  
6 ~~the documentary stamp tax and remitted for such fund pursuant to~~  
7 money transferred to the fund under section 76-903. Money remitted  
8 to such fund shall be used by the department (1) for grants to  
9 eligible shelter providers as set out in section 68-1605 for the  
10 purpose of assisting in the alleviation of homelessness, to provide  
11 temporary and permanent shelters for homeless persons, to encourage  
12 the development of projects which link housing assistance to  
13 programs promoting the concept of self-sufficiency, and to address  
14 the needs of the migrant farmworker and (2) to aid in defraying the  
15 expenses of administering the Homeless Shelter Assistance Trust  
16 Fund Act, which shall not exceed fifty thousand dollars in any  
17 fiscal year.

18 Any money in the fund available for investment shall be  
 19 invested by the state investment officer pursuant to the Nebraska  
 20 Capital Expansion Act and the Nebraska State Funds Investment  
 21 Act."

22 2. On page 2, line 3, strike "the General Fund and" and  
 23 show the old matter as stricken; strike the matter beginning with  
 1 "The" in line 4 through the period in line 10 and show the old  
 2 matter as stricken.

3 3. On page 7, strike beginning with "one" in line 13  
 4 through the comma in line 16, show the old matter as stricken, and  
 5 insert "all proceeds to the General Fund. Transfers may be made  
 6 from the General Fund to the Affordable Housing Trust Fund, the  
 7 Homeless Shelter Assistance Trust Fund, and the Behavioral Health  
 8 Services Fund at the direction of the Legislature."; and strike the  
 9 new matter in lines 21 and 22.

10 4. Renumber the remaining sections accordingly.

Pending.

## **SPEAKER BRASHEAR PRESIDING**

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 193, 274, 276, 351, 361, 389, 389A, 503, 503A, and 739.

### **AMENDMENT - Print in Journal**

Senator Thompson filed the following amendment to LB 761:  
 AM1309

(Amendments to Standing Committee amendments, AM0659)

1 1. On page 1, strike beginning with "the" in line 4  
 2 through "coordinator" in line 6 and insert "line 12 and insert 'one  
 3 director of a child advocacy center'"; and in line 8 after  
 4 "finance" insert ". Any member appointed pursuant to this  
 5 subdivision who is not specifically required by this section to be  
 6 a member of a local foster care review board may be a member of a  
 7 local foster care review board".

### **VISITORS**

Visitors to the Chamber were Josh Hertzel from Lincoln; 30 eighth-grade students and teacher from Scribner-Snyder Public Schools; members of the District 48 Youth Advisory Council and sponsors from Gering; and 51 fourth-grade students and teachers from Joslyn Elementary School, Omaha.

**RECESS**

At 12:00 p.m., on a motion by Senator Thompson, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senator Brown who was excused; and Senators Landis, McDonald, Mines, and Dw. Pedersen who were excused until they arrive.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on April 25, 2005, at 12:04 p.m. were the following: LBs 193e, 274, 276, 351e, 361e, 389, 389A, 503e, 503Ae, and 739.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**GENERAL FILE**

**LEGISLATIVE BILL 70.** Senator Chambers withdrew his pending motion, found on page 1258, to bracket until May 17, 2005.

The Jensen pending amendment, AM1289, found on page 1256, was renewed.

Senator Smith renewed his pending amendment, FA182, found on page 1278, to the Jensen pending amendment.

Pending.

**STANDING COMMITTEE REPORTS**  
**Judiciary**

**LEGISLATIVE BILL 218.** Placed on General File as amended.  
Standing Committee amendment to LB 218:  
AM0770

- 1 1. On page 14, reinstate the stricken matter beginning
- 2 in line 20 through "Act" in line 21 and after the reinstated matter
- 3 insert "of 2000, 42 U.S.C. 15001, as the act existed on January 1,
- 4 2005, and".

**LEGISLATIVE BILL 269.** Placed on General File as amended.

Standing Committee amendment to LB 269:

AM0941

1 1. Strike the original sections and insert the following  
2 new sections:

3 "Section 1. Sections 1 to 8 of this act provide a  
4 procedure for judicial emancipation of minors.

5 Sec. 2. A minor who is at least sixteen years of age,  
6 married, or living apart from his or her parents or legal guardian,  
7 and who is a legal resident of the county, may by his or her legal  
8 guardian or next friend file a complaint in the district court of  
9 that county for a judgment of emancipation.

10 Sec. 3. (1) A complaint for emancipation shall state:

11 (a) The name, age, and address of the minor;

12 (b) The names and addresses of the parents of the minor;

13 (c) The name and address of any legal guardian of the  
14 minor;

15 (d) If no parent or legal guardian can be found, the name  
16 and address of the child's nearest known relative residing within  
17 this state;

18 (e) That the minor is seeking a judgment of emancipation;  
19 and

20 (f) That the minor willingly lives apart from his or her  
21 parents or legal guardian with the consent or acquiescence of the  
22 parents or legal guardian.

23 (2) If any of the facts required by this section are not  
24 known, the complaint shall so state.

1 Sec. 4. A notice of filing, together with a copy of the  
2 complaint for emancipation, shall be served upon:

3 (1) The parents or legal guardian of the minor or, if the  
4 parents or legal guardian cannot be found, the nearest known  
5 relative of the minor residing within the state, if any;

6 (2) The legal custodian of the minor, if any;

7 (3) The appropriate probation officer for his or her  
8 review and recommendation, if the minor is a ward of the court; and

9 (4) The county attorney of the county in which the matter  
10 is to be heard.

11 Sec. 5. In making its determination regarding the  
12 complaint for emancipation, the court shall consider: Whether the  
13 parents or legal guardian of the minor have consented to  
14 emancipation; whether the minor is substantially able to support  
15 himself or herself without financial assistance; whether the minor  
16 is sufficiently mature and knowledgeable to manage his or her  
17 affairs without the guidance of parents or legal guardian; and  
18 whether emancipation is in the best interest of the minor. The  
19 court shall advise the minor of the consequences of emancipation.

20 Sec. 6. (1) If the court determines that emancipation  
21 should be granted, it shall enter a judgment of emancipation. Such  
22 judgment emancipates the minor for all purposes and removes the  
23 disability of minority insofar as that disability may affect:

24 Incurring indebtedness or contractual obligations of any kind;  
 25 acquiring, encumbering, and conveying property or any interest  
 26 therein; the litigation and settlement of controversies; consenting  
 27 to medical, dental, or psychiatric care without parental consent,  
 1 knowledge, or liability; enrolling in any school or college; and  
 2 establishment of his or her own residence. For these purposes, the  
 3 minor shall be considered in law as an adult and any obligation he  
 4 or she incurs is enforceable by and against such minor without  
 5 regard to his or her minority.

6 (2) Unless otherwise provided by the judgment for  
 7 emancipation, the obligation of support otherwise owed a minor by  
 8 his or her parent or legal guardian is terminated by the entry of  
 9 the judgment.

10 Sec. 7. A judgment of emancipation does not affect the  
 11 status of the minor for purposes of any provision of law which:

12 (1) Prohibits the sale, purchase, or consumption of  
 13 intoxicating liquor to or by a person under twenty-one years of  
 14 age;

15 (2) Prohibits gaming or employment in gaming by or of a  
 16 person under twenty-one years of age;

17 (3) Restricts the ability to marry a person under the age  
 18 of seventeen years of age; or

19 (4) Governs matters relating to juveniles.

20 Sec. 8. A complaint may be filed by any person or by any  
 21 public agency to void a judgment of emancipation on the following  
 22 grounds:

23 (1) The minor has become indigent and has insufficient  
 24 means of support; or

25 (2) The judgment of emancipation was obtained by fraud,  
 26 misrepresentation, or the withholding of material information.".

**LEGISLATIVE BILL 594.** Placed on General File as amended.

Standing Committee amendment to LB 594:

AM1132

- 1 1. On page 9, lines 3 and 4, strike "IV felony" and
- 2 insert "I misdemeanor"; and in line 12 strike "ten" and insert
- 3 "thirty".

**LEGISLATIVE BILL 620.** Placed on General File as amended.

Standing Committee amendment to LB 620:

AM1043

- 1 1. Strike the original sections and insert the following
- 2 new sections:

3 "Section 1. Section 37-729, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5 37-729. For purposes of sections 37-729 to 37-736:

- 6 (1) Land includes roads, water, watercourses, private
- 7 ways, and buildings, structures, and machinery or equipment thereon
- 8 when attached to the realty;

9 (2) Lease means an agreement between an owner of land and  
10 a nonprofit conservation corporation, political subdivision, or  
11 state or federal agency;

12 (3) Owner includes tenant, lessee, occupant, or person in  
13 control of the premises;

14 ~~(3)~~ (4) Recreational purposes includes, but is not  
15 limited to, any one or any combination of the following: Hunting,  
16 fishing, swimming, boating, camping, picnicking, hiking, pleasure  
17 driving, nature study, wildlife viewing including bird viewing,  
18 waterskiing, winter sports, and visiting, viewing, or enjoying  
19 historical, archaeological, scenic, or scientific sites, or  
20 otherwise using land for purposes of the user; and

21 ~~(4)~~ (5) Charge means the amount of money asked in return  
22 for an invitation to enter or go upon the land.

23 Sec. 2. Section 37-733, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

1 37-733. (1) Unless otherwise agreed in writing, an owner  
2 of land ~~(a) leased to the state for recreational purposes for~~  
3 recreational purposes or wildlife benefits by any nonprofit  
4 conservation corporation, political subdivision, or state or  
5 federal agency or (b) receiving wildlife habitat improvement  
6 payments from any nonprofit conservation corporation, political  
7 subdivision, or state or federal agency owes no duty of care to  
8 keep that land safe for entry or use by others or to give warning  
9 to persons entering or going upon such land of any hazardous  
10 conditions, uses, structures, or activities thereon. ~~Am~~

11 (2) ~~Such owner who leases land to the state for~~  
12 ~~recreational purposes~~ shall not by giving such lease or receiving  
13 such wildlife habitat improvement payment (a) (1) extend any  
14 assurance to any person using the land that the premises are safe  
15 for any purpose, ~~(2) (b) confer upon such persons the legal status~~  
16 of an invitee or licensee to whom a duty of care is owed, or ~~(3)~~  
17 (c) assume responsibility for or incur liability for any injury to  
18 person or property caused by an act or omission of a person who  
19 enters upon the leased land.

20 (3) The provisions of this section shall apply whether  
21 the person entering upon the leased land is an invitee, licensee,  
22 trespasser, or otherwise.

23 Sec. 3. Section 37-734, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 37-734. Nothing in sections 37-729 to 37-736 limits in  
26 any way any liability which otherwise exists (1) for willful or  
27 malicious failure to guard or warn against a dangerous condition,  
1 use, structure, or activity or (2) for injury suffered in any case  
2 where the owner of land charges the person or persons who enter or  
3 go on the land. ~~Rental paid by a group, organization, corporation,~~  
4 ~~or the state or federal government shall not be deemed a charge~~  
5 ~~made by the owner of the land. Lease payments for recreational~~  
6 purposes or wildlife benefits or wildlife habitat improvement

7 payments made by any nonprofit conservation corporation, political  
8 subdivision, or state or federal agency shall not be deemed a  
9 charge made by the owner of the land.  
10 Sec. 4. Original sections 37-729, 37-733, and 37-734,  
11 Reissue Revised Statutes of Nebraska, are repealed."

(Signed) Patrick J. Bourne, Chairperson

### **Appropriations**

**LEGISLATIVE BILL 605.** Placed on General File as amended.  
Standing Committee amendment to LB 605:  
AM1285

- 1 1. On page 5, line 26, strike "Stout, Randall, and Men's
- 2 Halls" and insert "Bruner Science Hall".

(Signed) Don Pederson, Chairperson

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 88.** Introduced by Dw. Pedersen, 39.

PURPOSE: The purpose of this study is to review issues relating to the exemption of sales tax on United States Postal Service delivery charges for transportation of advertising materials. LB 514 was introduced in 2005 to exempt such charges from sales tax. The study should examine how other states apply the sales tax to such charges and the consequences of enacting the exemption under the streamlined sales tax project.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **GENERAL FILE**

**LEGISLATIVE BILL 70.** Senator Jensen offered the following motion:  
Bracket until February 3, 2006.

Senator Langemeier moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

Senator Jensen moved for a call of the house. The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

Senator Jensen requested a roll call vote on his motion to bracket.

Voting in the affirmative, 8:

Beutler	Foley	Jensen	Synowiecki
Byars	Howard	Johnson	Thompson

Voting in the negative, 33:

Aguilar	Connealy	Heidemann	Louden	Schrock
Baker	Cornett	Hudkins	Mines	Smith
Bourne	Engel	Janssen	Pahls	Stuhr
Brashear	Erdman	Kopplin	Pedersen, Dw.	Stuthman
Burling	Fischer	Kremer	Pederson, D.	Wehrbein
Chambers	Flood	Landis	Raikes	
Combs	Friend	Langemeier	Redfield	

Present and not voting, 5:

Cudaback	Kruse	Preister	Price	Schimek
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Excused and not voting, 3:

Brown	Cunningham	McDonald
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The Jensen motion to bracket failed with 8 ayes, 33 nays, 5 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

The Smith pending amendment, FA182, found on page 1278 and considered in this day's Journal, to the Jensen pending amendment, was renewed.

Senator Smith withdrew his amendment.

Senator Smith offered the following amendment to the Jensen pending amendment:

AM1312

- 1 1. On page 16, strike beginning with "Except" in line 5
- 2 through "a" in line 6 and reinstate the stricken "A"; in line 8
- 3 after "wearing" insert "eye protection and"; and strike lines 20
- 4 through 28.
- 5 2. On page 17, strike lines 1 through 8; in line 9
- 6 strike "(4)" and insert "(2)"; and in line 14 strike "(5)" and
- 7 insert "(3)".
- 8 3. In the Jensen amendment, AM1289:
- 9 a. On page 1, strike beginning with "Strike" in line 1
- 10 through "sections" in line 2 and insert "Insert the following new

- 11 section"; and  
 12 b. On page 2, strike beginning with line 7 through the  
 13 first period in line 10.  
 14 4. Renumber the remaining sections and correct internal  
 15 references accordingly.

### **SPEAKER BRASHEAR PRESIDING**

Senator Smith offered the following motion:  
 Invoke cloture on LB 70, pursuant to Rule 7, Section 10.

Senator Smith moved for a call of the house. The motion prevailed with 40 ayes, 0 nays, and 9 not voting.

Senator Smith requested a roll call vote on his motion to invoke cloture.

Voting in the affirmative, 35:

Aguilar	Cornett	Friend	Langemeier	Raikes
Baker	Cudaback	Heidemann	Louden	Redfield
Bourne	Cunningham	Hudkins	McDonald	Schrock
Brashear	Engel	Janssen	Mines	Smith
Burling	Erdman	Kopplin	Pahls	Stuhr
Combs	Fischer	Kremer	Pedersen, Dw.	Stuthman
Connealy	Flood	Landis	Pederson, D.	Wehrbein

Voting in the negative, 10:

Beutler	Chambers	Howard	Johnson	Synowiecki
Byars	Foley	Jensen	Schimek	Thompson

Present and not voting, 3:

Kruse	Preister	Price
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Excused and not voting, 1:

Brown

The Smith motion to invoke cloture prevailed with 35 ayes, 10 nays, 3 present and not voting, and 1 excused and not voting.

Senator Chambers requested a roll call vote on the Smith amendment, AM1312.

Senator Smith requested the roll call vote be taken in reverse order.

Voting in the affirmative, 28:

Aguilar	Cornett	Flood	Kruse	Schrock
Baker	Cudaback	Friend	Langemeier	Smith
Bourne	Cunningham	Heidemann	Louden	Stuhr
Brashear	Engel	Hudkins	McDonald	Stuthman
Combs	Erdman	Janssen	Mines	
Connealy	Fischer	Kremer	Raikes	

Voting in the negative, 19:

Beutler	Foley	Kopplin	Pederson, D.	Synowiecki
Burling	Howard	Landis	Preister	Thompson
Byars	Jensen	Pahls	Redfield	Wehrbein
Chambers	Johnson	Pedersen, Dw.	Schimek	

Present and not voting, 1:

Price

Excused and not voting, 1:

Brown

The Smith amendment was adopted with 28 ayes, 19 nays, 1 present and not voting, and 1 excused and not voting.

Senator Chambers requested a roll call vote on the Jensen amendment, AM1289, as amended.

Senator Smith requested the roll call vote be taken in reverse order.

Voting in the affirmative, 26:

Aguilar	Cornett	Friend	Landis	Schrock
Baker	Cudaback	Heidemann	Langemeier	Smith
Bourne	Cunningham	Hudkins	Louden	
Brashear	Erdman	Janssen	McDonald	
Combs	Fischer	Kremer	Mines	
Connealy	Flood	Kruse	Raikes	

Voting in the negative, 14:

Beutler	Engel	Pahls	Redfield	Thompson
Burling	Foley	Pedersen, Dw.	Stuthman	Wehrbein
Chambers	Kopplin	Preister	Synowiecki	

Present and not voting, 8:

Byars	Jensen	Pederson, D.	Schimek
Howard	Johnson	Price	Stuhr

Excused and not voting, 1:

Brown

The Jensen amendment, as amended, was adopted with 26 ayes, 14 nays, 8 present and not voting, and 1 excused and not voting.

Senator Smith requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 27:

Aguilar	Connealy	Friend	Langemeier	Smith
Baker	Cudaback	Heidemann	Louden	Stuhr
Bourne	Cunningham	Hudkins	McDonald	Stuthman
Brashear	Erdman	Janssen	Mines	
Burling	Fischer	Kremer	Raikes	
Combs	Flood	Landis	Schrock	

Voting in the negative, 20:

Beutler	Engel	Johnson	Pederson, D.	Schimek
Byars	Foley	Kopplin	Preister	Synowiecki
Chambers	Howard	Pahls	Price	Thompson
Cornett	Jensen	Pedersen, Dw.	Redfield	Wehrbein

Present and not voting, 1:

Kruse

Excused and not voting, 1:

Brown

Advanced to E & R for review with 27 ayes, 20 nays, 1 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 70A.** Title read. Considered.

Senator Chambers offered the following motion:  
Indefinitely postpone.

Pending.

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 89.** Introduced by Preister, 5.

**PURPOSE:** To examine incentives to stimulate development of renewable energy in Nebraska.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution and shall request input from the Natural Resources Committee of the Legislature.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 90.** Introduced by Preister, 5.

**PURPOSE:** To examine electronic waste recycling including funding mechanisms.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 91.** Introduced by Preister, 5.

**PURPOSE:** To examine environmental justice issues in Nebraska.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 92.** Introduced by Preister, 5.

**PURPOSE:** To examine the implementation of the federal confined animal feeding regulations under the National Pollutant Discharge Elimination System.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Pahls asked unanimous consent to have his name added as cointroducer to LB 117. No objections. So ordered.

### **AMENDMENT - Print in Journal**

Senator Chambers filed the following amendment to LB 70A:  
FA185

P. 2, line 9 strike "\$120,000" and insert "\$120"

### **VISITORS**

Visitors to the Chamber were 19 fourth-grade students and teachers from Lincoln Elementary School, Norfolk.

### **ADJOURNMENT**

At 4:21 p.m., on a motion by Speaker Brashear, the Legislature adjourned until 9:00 a.m., Tuesday, April 26, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**SIXTY-EIGHTH DAY - APRIL 26, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SIXTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, April 26, 2005

**PRAYER**

The prayer was offered by Pastor Paul Witt, St. Mary's Catholic Church, Lincoln.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Thompson who was excused; and Senators Byars, Combs, Cornett, Engel, Landis, Dw. Pedersen, and Raikes who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-seventh day was approved.

**GENERAL FILE**

**LEGISLATIVE BILL 70A.** The Chambers pending motion, found on page 1291, to indefinitely postpone, was renewed.

Senator Chambers moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

Senator Chambers requested a roll call vote on his motion to indefinitely postpone.

Voting in the affirmative, 3:

Chambers      Cornett      Johnson

Voting in the negative, 30:

Aguilar	Cudaback	Heidemann	Landis	Pederson, D.
Baker	Cunningham	Howard	Langemeier	Schrock
Bourne	Erdman	Hudkins	Louden	Smith
Brashear	Fischer	Janssen	McDonald	Stuhr
Combs	Foley	Kremer	Mines	Stuthman
Connealy	Friend	Kruse	Pedersen, Dw.	Wehrbein

Present and not voting, 10:

Beutler	Burling	Pahls	Price	Schimek
Brown	Kopplin	Preister	Redfield	Synowiecki

Excused and not voting, 6:

Byars	Flood	Raikes
Engel	Jensen	Thompson

The Chambers motion to indefinitely postpone failed with 3 ayes, 30 nays, 10 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, FA185, found on page 1293.

Senator Chambers moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 1:

Chambers

Voting in the negative, 33:

Aguilar	Cornett	Friend	Landis	Schrock
Baker	Cunningham	Heidemann	Langemeier	Smith
Bourne	Engel	Howard	Louden	Stuhr
Brashear	Erdman	Hudkins	McDonald	Stuthman
Burling	Fischer	Janssen	Mines	Wehrbein
Combs	Flood	Kremer	Pedersen, Dw.	
Connealy	Foley	Kruse	Pederson, D.	

Present and not voting, 12:

Beutler	Jensen	Pahls	Redfield
Brown	Johnson	Preister	Schimek
Cudaback	Kopplin	Price	Synowiecki

Excused and not voting, 3:

Byars                      Raikes                      Thompson

The Chambers amendment lost with 1 aye, 33 nays, 12 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

### **AMENDMENT - Print in Journal**

Senator Cornett filed the following amendment to LB 326:  
AM1318

- 1 1. Insert the following new section:
- 2 "Sec. 2. Section 79-473, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 79-473. (1) If the territory annexed by a change of
- 5 boundaries of a city or village which lies within a Class III
- 6 school district as provided in section 79-407 has been part of a
- 7 Class IV or Class V school district prior to such annexation, a
- 8 merger of the annexed territory with the Class III school district
- 9 shall become effective only if the merger is approved by a majority
- 10 of the members of the school board of the Class IV or V school
- 11 district and a majority of the members of the school board of the
- 12 Class III school district within ninety days after the effective
- 13 date of the annexation ordinance.
- 14 (2) Notwithstanding subsection (1) of this section, when
- 15 territory which lies within a Class III school district, Class VI
- 16 school district, or Class I school district which is attached to a
- 17 Class VI school district or which does not lie within a Class IV or
- 18 V school district is annexed by a city or village pursuant to
- 19 section 79-407, the affected school board of the city or village
- 20 school district and the affected school board or boards serving the
- 21 territory subject to the annexation ordinance shall meet within
- 22 thirty days after the effective date of the annexation ordinance
- 23 and negotiate in good faith as to which school district shall serve
- 24 the annexed territory and the effective date of any transfer.
- 1 During the process of negotiation, the affected boards shall
- 2 consider the following criteria:
- 3 (a) The educational needs of the students in the affected
- 4 school districts;
- 5 (b) The economic impact upon the affected school
- 6 districts;
- 7 (c) Any common interests between the annexed or platted
- 8 area and the affected school districts and the community which has
- 9 zoning jurisdiction over the area; and

10 (d) Community educational planning.

11 If no agreement has been reached within ninety days after  
12 the effective date of the annexation ordinance, the territory shall  
13 transfer to the school district of the annexing city or village ten  
14 days after the expiration of such ninety-day period unless an  
15 affected school district petitions the district court within the  
16 ten-day period and obtains an order enjoining the transfer and  
17 requiring the boards of the affected school districts to continue  
18 negotiation. The court shall issue the order upon a finding that  
19 the affected board or boards have not negotiated in good faith  
20 based on one or more of the criteria listed in this subsection.  
21 The district court shall require no bond or other surety as a  
22 condition for any preliminary injunctive relief. If no agreement  
23 is reached after such order by the district court and additional  
24 negotiations, the annexed territory shall become a part of the  
25 school district of the annexing city or village.

26 (3) If, within the boundaries of the annexed territory,  
27 there exists a Class VI school, the school building, facilities,  
1 and land owned by the school district shall remain a part of the  
2 Class VI school district. If the Class VI school district from  
3 which territory is being annexed wishes to dispose of such school  
4 building, facilities, or land to any individual or political  
5 subdivision, including a Class I school district, the question of  
6 such disposition shall be placed on the ballot for the next primary  
7 or general election. All legal voters of such Class VI school  
8 district shall then vote on the question at such election. A  
9 simple majority of the votes cast shall resolve the issue.

10 (4) Whenever an application for approval of a final plat  
11 or replat is filed for territory which lies within the zoning  
12 jurisdiction of a city of the first or second class and does not  
13 lie within the boundaries of a Class IV or V school district, the  
14 affected school board of the school district within the city of the  
15 first or second class or its representative and the affected board  
16 or boards serving the territory subject to the final plat or replat  
17 or their representative shall meet within thirty days after such  
18 application and negotiate in good faith as to which school district  
19 shall serve the platted or replatted territory and the effective  
20 date of any transfer based upon the criteria prescribed in  
21 subsection (2) of this section.

22 If no agreement has been reached prior to the approval of  
23 the final plat or replat, the territory shall transfer to the  
24 school district of the city of the first or second class upon the  
25 filing of the final plat unless an affected school district  
26 petitions the district court within ten days after approval of the  
27 final plat or replat and obtains an order enjoining the transfer  
1 and requiring the affected boards to continue negotiation. The  
2 court shall issue the order upon a finding that the affected board  
3 or boards have not negotiated in good faith based on one or more of  
4 the criteria listed in subsection (2) of this section. The

5 district court shall require no bond or other surety as a condition  
6 for any preliminary injunctive relief. If no agreement is reached  
7 after such order by the district court and additional negotiations,  
8 the platted or replatted territory shall become a part of the  
9 school district of the city of the first or second class.  
10 For purposes of this subsection, plat and replat apply  
11 only to (a) vacant land, (b) land under cultivation, or (c) any  
12 plat or replat of land involving a substantive change in the size  
13 or configuration of any lot or lots.  
14 (5) Notwithstanding any other provisions of this section,  
15 all negotiated agreements relative to boundaries or to real or  
16 personal property of school districts reached by the affected  
17 school boards shall be valid and binding until annexation by a city  
18 of the first or second class located in a county having a  
19 population of one hundred thousand inhabitants or more but not more  
20 than two hundred thousand inhabitants."  
21 2. Amend the repealer and renumber the remaining section  
22 accordingly.

### **SELECT COMMITTEE REPORT**

#### **Enrollment and Review**

**LEGISLATIVE RESOLUTION 8CA.** Placed on Select File as amended.  
E & R amendment to LR 8CA:  
AM7087

- 1 1. On page 1, line 7, strike "28" and insert "30"; and
- 2 in line 8 strike "I-28" and insert "I-30".

(Signed) Michael Flood, Chairperson

### **SPEAKER BRASHEAR PRESIDING**

#### **RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR 77 was adopted.

#### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 77.

#### **GENERAL FILE**

**LEGISLATIVE BILL 70A.** Senator Smith offered the following motion:  
Invoke cloture on LB 70A, pursuant to Rule 7, Section 10.

Senator Smith moved for a call of the house. The motion prevailed with 42 ayes, 0 nays, and 7 not voting.

Senator Smith requested a roll call vote on his motion to invoke cloture.

Voting in the affirmative, 33:

Aguilar	Cudaback	Friend	Langemeier	Schrock
Baker	Cunningham	Heidemann	Louden	Smith
Bourne	Engel	Hudkins	McDonald	Stuhr
Brashear	Erdman	Janssen	Mines	Stuthman
Burling	Fischer	Kremer	Pahls	Wehrbein
Combs	Flood	Kruse	Pedersen, Dw.	
Connealy	Foley	Landis	Pederson, D.	

Voting in the negative, 7:

Beutler	Chambers	Howard	Synowiecki
Brown	Cornett	Kopplin	

Present and not voting, 6:

Jensen	Preister	Redfield
Johnson	Price	Schimek

Excused and not voting, 3:

Byars	Raikes	Thompson
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The Smith motion to invoke cloture prevailed with 33 ayes, 7 nays, 6 present and not voting, and 3 excused and not voting.

Senator Chambers requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 42:

Aguilar	Cornett	Heidemann	Langemeier	Schrock
Baker	Cudaback	Howard	Louden	Smith
Beutler	Cunningham	Hudkins	McDonald	Stuhr
Bourne	Engel	Janssen	Mines	Stuthman
Brashear	Erdman	Johnson	Pahls	Synowiecki
Brown	Fischer	Kopplin	Pederson, D.	Wehrbein
Burling	Flood	Kremer	Preister	
Combs	Foley	Kruse	Price	
Connealy	Friend	Landis	Schimek	

Voting in the negative, 2:

Chambers	Pedersen, Dw.
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Present and not voting, 2:

Jensen                Redfield

Excused and not voting, 3:

Byars                Raikes                Thompson

Advanced to E & R for review with 42 ayes, 2 nays, 2 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

## **SENATOR CUDABACK PRESIDING**

**LEGISLATIVE BILL 117.** Title read. Considered.

The Standing Committee amendment, AM0712, printed separately and referred to on page 871, was considered.

Senator Beutler renewed his pending amendment, AM1181, found on page 1189, to the Standing Committee amendment.

Senator Beutler withdrew his amendment.

Senator Chambers requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is as follows:

(FA188 consists of the following portions of the Standing Committee amendment:

Pages 1-14

Page 15, Lines 1-19, 26, and 27

Page 16

Page 17, Lines 1-10 and 24-27

Page 18, Lines 1-6 and 14-16)

Pending.

## **AMENDMENTS - Print in Journal**

Senator Chambers filed the following amendment to LB 70A:

FA186

On page 2, in line 1 strike "\$8,000".

Senator Chambers filed the following amendment to LB 70A:

FA187

On page 2, in line 9 strike "\$120,000" and insert "\$120";

In lines 10 and 11 strike "\$60,000" and insert "\$60".

Senator Beutler filed the following amendment to LB 117:  
AM1316

(Amendments to Standing Committee amendments, FA188)

- 1 1. Insert the following new section:
- 2 "Sec. 7. No person shall possess pseudoephedrine or
- 3 phenylpropanolamine, or their salts, isomers, or salts of isomers,
- 4 in quantities greater than seven thousand two hundred milligrams of
- 5 pseudoephedrine base or seven thousand two hundred milligrams of
- 6 phenylpropanolamine base. This section shall not apply to bona
- 7 fide businesses and persons in the pharmaceutical industry as
- 8 manufacturers, transporters, wholesalers, or retailers, acting in
- 9 the normal course of business. Any person who violates this
- 10 section is guilty of a Class IV felony.".
- 11 2. On page 9, line 15, strike "section 6" and insert
- 12 "sections 6 and 7".
- 13 3. Renumber the remaining sections accordingly.

### VISITORS

Visitors to the Chamber were 50 sixth-grade students and teachers from Edison Elementary School, Omaha; 67 fourth-grade students and teachers from Aldrich Elementary School, Omaha; 13 fourth-grade students and teacher from David City Public School and Bellwood Attendance Center; and 63 fourth-grade students and teachers from Dodge Elementary School, Grand Island.

### RECESS

At 11:57 a.m., on a motion by Senator Schrock, the Legislature recessed until 1:30 p.m.

### AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

### ROLL CALL

The roll was called and all members were present except Senator Thompson who was excused; and Senators Cornett, Engel, Landis, and Loudon who were excused until they arrive.

### GENERAL FILE

**LEGISLATIVE BILL 40.** The Standing Committee amendment, AM0387, found on page 505 and considered on page 1281, as amended, was renewed.

The Beutler pending amendment, AM1263, found on page 1281, to the Standing Committee amendment, was renewed.

**SENATOR SCHIMEK PRESIDING**

Senator Beutler withdrew his amendment.

Senator Synowiecki withdrew his pending amendment, AM0299, found on page 525.

Senator Beutler withdrew his pending amendment, AM1204, found on page 1195.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA195

Amend AM0387

Repeal outright section 76-901 (p. 6)

**PRESIDENT SHEEHY PRESIDING**

Senator Chambers moved for a call of the house. The motion prevailed with 18 ayes, 1 nay, and 30 not voting.

The Chambers amendment lost with 1 aye, 31 nays, 13 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA196

Amend AM0387

Outright repeal section 77-1327.

**SENATOR CUDABACK PRESIDING**

Senator Chambers withdrew his amendment.

The Standing Committee amendment, as amended, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 40A.** Title read. Considered.

Senator Redfield withdrew the Redfield et al. pending amendment, AM1232, found on page 1214.

Senator Redfield renewed her pending amendment, AM1259, found on page

1244.

The Redfield amendment was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 114.** Title read. Considered.

The Standing Committee amendment, AM0247, found on page 440, was considered.

Pending.

**NOTICE OF COMMITTEE HEARING**  
**Business and Labor**  
Room 2102

Tuesday, May 10, 2005

1:00 p.m.

Charles Cole - Boiler Safety Code Advisory Board

Jeffrey L. Orr - Commission of Industrial Relations

(Signed) Douglas Cunningham, Chairperson

**AMENDMENTS - Print in Journal**

Senator D. Pederson filed the following amendment to LB 566:  
AM1315

- 1 1. Strike original section 59 and insert the following
- 2 new sections:
- 3 "Sec. 32. Section 32-554, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 32-554. (1)(a) Any city not under a home rule charter,
- 6 village, county, or school district nominating and electing members
- 7 to its governing board at large may at a general election submit
- 8 the question of nominating and electing members to its governing
- 9 board by district or ward.
- 10 (b) Any city not under a home rule charter, village,
- 11 county having not more than three hundred thousand inhabitants, or
- 12 school district nominating and electing members to its governing
- 13 board by district or ward may at a general election submit the
- 14 question of nominating and electing members to its governing board
- 15 at large.
- 16 (c) Any city of the first class, except a city having
- 17 adopted the commissioner or city manager plan of government,
- 18 nominating and electing members to its governing body by ward may
- 19 at a general election submit the question of nominating and
- 20 electing some of the members to its governing body by ward and some

21 at large either by ordinance by a vote of a majority of the members  
22 of the governing body or by petition of the registered voters of  
23 the city. No more than three members of the city council may be  
24 elected on an at-large basis, and at least four members of the city  
1 council shall be elected by ward. The ordinance or petition shall  
2 specify the number of at-large members to be elected. At the first  
3 election in which one or more at-large members are to be elected to  
4 the city council, the members shall be elected to serve for initial  
5 terms of office of the following lengths:

6 (i) If one at-large member is to be elected, he or she  
7 shall serve for a four-year term;  
8 (ii) If two at-large members are to be elected, the  
9 candidate receiving the highest number of votes shall be elected to  
10 serve for a four-year term and the other elected member shall be  
11 elected to serve for a two-year term; and  
12 (iii) If three at-large members are to be elected, the  
13 two candidates receiving the highest number of votes shall be  
14 elected to serve for four-year terms and the other elected member  
15 shall be elected to serve for a two-year term. Following the  
16 initial term of office, all at-large council members shall be  
17 elected to serve for four-year terms. No candidate may file as  
18 both an at-large candidate and a candidate by ward at the same  
19 election.

20 (2) Petitions for submission of the question shall be  
21 signed by registered voters of the city, village, county, or school  
22 district desiring to change the procedures for electing the  
23 governing board of the city, village, county, or school district.  
24 The petition or petitions shall be signed by registered voters  
25 equal in number to twenty-five percent of the votes cast for the  
26 person receiving the highest number of votes in the city, village,  
27 county, or school district at the preceding general election for  
1 electing the last member or members to its governing board. Each  
2 sheet of the petition shall have printed the full and correct copy  
3 of the question as it will appear on the official ballot. The  
4 petitions shall be filed with the county clerk or election  
5 commissioner not less than seventy days prior to the date of the  
6 general election, and no signatures shall be added or removed from  
7 the petitions after they have been so filed. Petitions shall be  
8 verified as provided in section 32-631. If the petition or  
9 petitions are found to contain the required number of valid  
10 signatures, the county clerk or election commissioner shall place  
11 the question on a separate ballot to be issued to the registered  
12 voters of the city, village, county, or school district entitled to  
13 vote on the question.

14 (3)(a) Any city, village, county, or school district  
15 voting to change from nominating and electing the members of its  
16 governing board by district or ward to nominating and electing some  
17 or all of such members at large shall notify the public and  
18 instruct the filing officer to accept the appropriate filings on an

19 at-large basis. Candidates to be elected at large shall be  
20 nominated and elected on an at-large basis at the next primary and  
21 general election following submission of the question.

22 (b) Any city, village, county, or school district voting  
23 to change from nominating and electing the members of its governing  
24 board at large to nominating and electing by district or ward shall  
25 notify the public and instruct the filing officer to accept all  
26 filings by district or ward. Candidates shall be nominated and  
27 elected by district or ward at the next primary and general  
1 election following submission of the question. When district or  
2 ward elections have been approved by the majority of the  
3 electorate, the governing board of any city, village, county, or  
4 school district approving such question shall establish districts  
5 substantially equal in population as determined by the most recent  
6 federal decennial census except as provided in subsection (2) of  
7 section 32-553.

8 (4) Except as provided in section 14-201, each city not  
9 under a home rule charter, village, county, and school district  
10 which votes to nominate and elect members to its governing board by  
11 district or ward shall establish districts or wards so that  
12 approximately one-half of the members of its governing board may be  
13 nominated and elected from districts or wards ~~bearing odd numbers~~  
14 ~~at one election and from districts or wards bearing even numbers at~~  
15 ~~the following at each~~ election. Districts or wards shall be  
16 created not later than October 1 in the year following the general  
17 election at which the question was voted upon. If the governing  
18 board fails to draw district boundaries by October 1, the  
19 procedures set forth in section 32-555 shall be followed.

20 Sec. 60. Sections 32 and 61 of this act become operative  
21 three calendar months after the adjournment of this legislative  
22 session. The other sections of this act become operative on  
23 January 1, 2006.

24 Sec. 61. Original section 32-554, Reissue Revised  
25 Statutes of Nebraska, is repealed."

26 2. Renumber the remaining sections and correct internal  
27 references accordingly.

Senator Beutler filed the following amendment to LB 40:  
AM1329

(Amendments to AM1227)

1 1. Insert the following new section:

2 "Sec. 6. Section 76-905, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 76-905. Any register of deeds who ~~shall record knowingly~~  
5 ~~records~~ any deed upon which a tax is imposed by ~~the provisions of~~  
6 sections 76-901 to 76-907 without collecting the proper amount of  
7 tax as required by ~~the provisions of~~ sections 76-901 to 76-907 as  
8 is indicated in the declaration appended to such deed shall, ~~upon~~  
9 ~~conviction thereof, be fined the sum of fifty dollars be guilty of~~

10 official misconduct as defined in section 28-924."

11 2. Renumber the remaining sections and correct the  
12 repealer accordingly.

Senator Landis filed the following amendment to LB 211:  
AM1327

(Amendments to Final Reading copy)

1 1. Strike section 2 and insert the following new  
2 sections:

3 "Section 1. This act shall be known and may be cited as  
4 the Nebraska Archaeological Resources Preservation Act.

5 Sec. 2. The Legislature hereby finds and declares that:

6 (1) The resource base of archaeological sites is being  
7 threatened at an increasing rate by agricultural, urban,  
8 commercial, transportation, governmental, and industrial  
9 development; and

10 (2) Archaeological sites represent an important public  
11 resource embodying the record of our state's cultural heritage.

12 Sec. 3. For purposes of the Nebraska Archaeological  
13 Resources Preservation Act:

14 (1) Archaeological resource means any material object of  
15 past human life or activities that is of archaeological interest.  
16 Such objects include, but are not limited to, pottery, basketry,  
17 bottles, weapons, tools, structures or portions of structures,  
18 dwellings, rock paintings, rock carvings, intaglios, graves, human  
19 skeletal materials, or any portion or piece of any of such items.  
20 Nonfossilized and fossilized paleontological specimens, or any  
21 portion or piece thereof, shall not be considered archaeological  
22 resources unless found in an archaeological context. No object  
23 shall be treated as an archaeological resource under this  
1 subdivision unless such object is determined to be at least fifty  
2 years of age;

3 (2) Archaeological site means a place or location where  
4 archaeological resources are found;

5 (3) Master archaeological site file means the records  
6 inventory of all known Nebraska archaeological sites maintained by  
7 the Nebraska State Historical Society;

8 (4) National Register of Historic Places means the  
9 register of districts, sites, buildings, structures, and objects  
10 significant in American history, architecture, archaeology,  
11 engineering, and culture, maintained by the Secretary of the  
12 Interior under the authority of the federal Historic Sites,  
13 Buildings, and Antiquities Act, 16 U.S.C. 462(b), and the National  
14 Historic Preservation Act, 16 U.S.C. 470a(a)(1)(A);

15 (5) State agency means any division, department, board,  
16 bureau, commission, or agency of the State of Nebraska; and

17 (6) Undertaking means a project, activity, or program  
18 funded in whole or in part under the jurisdiction of a state  
19 agency.

20 Sec. 4. (1) There is hereby established the State  
21 Archaeology Office which shall be a division within the Nebraska  
22 State Historical Society. The purpose of the office shall be to  
23 coordinate and encourage appropriate archaeological undertakings  
24 and to preserve archaeological resources. The State Archaeology  
25 Office may adopt and promulgate rules and regulations to carry out  
26 the purposes of the Nebraska Archaeological Resources Preservation  
27 Act.

1 (2) The State Archaeology Office shall be headed by the  
2 State Archaeologist. The State Archaeologist shall be a graduate  
3 of a recognized college or university with a graduate degree in  
4 archaeology or anthropology and shall have sufficient practical  
5 experience and knowledge of archaeology to carry out the purposes  
6 of the act.

7 (3) The State Archaeology Office shall:

8 (a) Promote development of archaeological resources for  
9 educational, cultural, tourism, and scientific purposes;

10 (b) Support popular and avocational interest in  
11 archaeological resources through field trips, demonstrations,  
12 seminars, and excavations throughout the state;

13 (c) Conduct a program of locating, identifying,  
14 quantifying, and assessing the significance of the state's  
15 archaeological resources;

16 (d) Maintain the master archaeological site file;

17 (e) Advise state agencies, political subdivisions,  
18 nongovernmental organizations, commercial and business interests,  
19 private property owners, individuals, and others as to the  
20 provisions and requirements of the act;

21 (f) Serve as the liaison office in transactions dealing  
22 with archaeological resources between state agencies and between  
23 the state and the federal government;

24 (g) Cooperate with state agencies and others in  
25 overseeing the execution of undertakings required by the act;

26 (h) Serve as the liaison office between state agencies  
27 and Indian tribes, the Commission on Indian Affairs, or other  
1 constituent groups culturally affiliated with archaeological sites  
2 involved in undertakings;

3 (i) Maintain a list of archaeologists qualified to  
4 conduct research projects required by the act;

5 (j) Maintain a permanent repository and electronic data  
6 base of published and unpublished sources on the archaeological  
7 resources of the state;

8 (k) Prepare, publish, and distribute for professional use  
9 and public education reports, bulletins, pamphlets, maps, and other  
10 products necessary to achieve the purposes of the act;

11 (l) Implement a program of emergency salvage archaeology,  
12 which includes surveys and either salvage or preservation of  
13 archaeological resources imperiled by development activities or  
14 natural forces;

15 (m) Administer and manage grants, bequests, devises, tax  
16 incentives, and easements of property to the state for the purposes  
17 of preserving archaeological sites and resources; and

18 (n) Ensure the long-term curation and management of  
19 collections and records resulting from undertakings within the  
20 state;

21 (o) Identify properties included in the National Register  
22 of Historic Places that are endangered, and coordinate or  
23 facilitate the purchase and maintenance of such properties by other  
24 public or private agencies; and

25 (p) Conduct all other activities necessary to carry out  
26 the purposes of the act.

27 Sec. 5. (1) Except as provided in subsection (2) of this  
1 section, the head of any state agency having jurisdiction over a  
2 proposed state or state-funded undertaking, which has potential to  
3 affect archaeological resources or sites, shall, prior to the  
4 approval of the expenditure of any state funds on the undertaking,  
5 notify the State Archaeology Office of the undertaking and  
6 cooperate with the office to identify and develop measures to  
7 mitigate the effect of the undertaking on any archaeological site  
8 or resource that is included in or eligible for inclusion in the  
9 National Register of Historic Places.

10 (2) The Department of Roads shall be exempt from the  
11 provisions of the Nebraska Archaeological Resources Preservation  
12 Act as long as a cooperative agreement exists between the  
13 Department of Roads and the Nebraska State Historical Society which  
14 ensures that all highway construction projects meet federal  
15 historic preservation legislation and regulations, and such federal  
16 preservation legislation and regulations fulfill or exceed the  
17 objectives and standards of the act.

18 (3) Nothing in this section shall be construed to abridge  
19 the rights of private property owners and in no case shall a  
20 private property owner be required to pay for activities undertaken  
21 by the State Archaeology Office.

22 Sec. 6. The State Archaeology Office may accept, use,  
23 disburse, and administer all funds or other property, services, and  
24 money allotted to it for purposes of the Nebraska Archaeological  
25 Resources Preservation Act and may prescribe the conditions under  
26 which such funds, property, services, or money will be accepted and  
27 administered.

1 Sec. 7. (1) Any person who knowingly and willfully  
2 appropriates, excavates, injures, or destroys any archaeological  
3 resource on public land without written permission from the State  
4 Archaeology Office is guilty of a Class III misdemeanor.

5 (2) When the State Archaeology Office has cause to  
6 believe that a person has engaged in or is engaging in any unlawful  
7 conduct prescribed in this section, it may apply for and obtain, in  
8 an action in the appropriate district court of this state, a  
9 temporary restraining order or injunction, or both, pursuant to the

10 Nebraska rules of civil procedure prohibiting such person from  
11 continuing such practices, or engaging therein, or doing any act in  
12 furtherance thereof.

13 Sec. 8. No person shall enter or attempt to enter upon  
14 the lands of another without permission and intentionally  
15 appropriate, excavate, injure, or destroy any archaeological  
16 resource or any archaeological site. Any person committing such  
17 act is guilty of a Class III misdemeanor.

18 Sec. 9. The Nebraska State Historical Society may use  
19 General Fund appropriations to match other funds, grants, or money  
20 received to carry out the Nebraska Archaeological Resources  
21 Preservation Act.

22 Sec. 10. The State Archaeology Cash Fund is hereby  
23 created. The fund may be used to carry out the purposes of the  
24 Nebraska Archaeological Resources Preservation Act. Any money in  
25 the fund available for investment shall be invested by the state  
26 investment officer pursuant to the Nebraska Capital Expansion Act  
27 and the Nebraska State Funds Investment Act.

1 Sec. 12. Section 11 of this act becomes operative on  
2 January 1, 2006. The other sections of this act become operative  
3 on their effective date."

4 2. On page 1, line 1, strike "cemeteries" and insert  
5 "the Nebraska State Historical Society" and after the semicolon  
6 insert "to adopt the Nebraska Archaeological Resources Preservation  
7 Act; to provide penalties;"; and in lines 2 and 3 strike "an  
8 operative date" and insert "operative dates".

9 3. Renumber the remaining section accordingly.

## GENERAL FILE

**LEGISLATIVE BILL 114.** The Standing Committee amendment, AM0247, found on page 440 and considered in this day's Journal, was renewed.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

The Standing Committee amendment was adopted with 27 ayes, 0 nays, 13 present and not voting, and 9 excused and not voting.

Senator Chambers offered the following amendment:  
FA201

On page 3, in line 16, strike and show as stricken "for" and insert "to".

Senator Chambers withdrew his amendment.

Senator Bourne offered the following amendment:  
AM0975

- 1 1. Insert the following new section:  
 2 "Sec. 3. This act is a complete act and its provisions  
 3 inseverable. If any provision is declared unconstitutional, the  
 4 entire act is invalid."  
 5 2. On page 3, after line 7, insert the following new  
 6 subsection:  
 7 "(4) Any licensed physician, physician assistant,  
 8 advanced practice registered nurse, or optometrist shall perform  
 9 the visual evaluation required by subsection (3) of this section  
 10 free of charge for any child whose parent or guardian requests such  
 11 an evaluation if the parent or guardian asserts that the family's  
 12 income is equal to or less than one hundred fifty percent of the  
 13 Office of Management and Budget income poverty guidelines.".  
 14 3. Renumber the remaining sections accordingly.

Senator Bourne withdrew his amendment.

Advanced to E & R for review with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

## STANDING COMMITTEE REPORT

### Business and Labor

**LEGISLATIVE BILL 737.** Placed on General File as amended.  
 Standing Committee amendment to LB 737:  
 AM1294

- 1 1. Strike original section 2 and insert the following  
 2 new sections:  
 3 "Sec. 2. There are hereby appropriated the following  
 4 sums of money, or so much thereof as may be required, from the  
 5 General Fund or from other funds as indicated in the state  
 6 treasury, not otherwise appropriated, for the payment of tort  
 7 claims which have been settled by the Attorney General in the  
 8 district court or in which court judgments have been entered and  
 9 which require the approval of the Legislature for payment.  
 10 DESCRIPTION DOLLARS  
 11 Tort Claim No. 02-458, against the Department of  
 12 Roads, pay to Joshua Smith and James Schaefer,  
 13 Attorney, 1001 Farnam Street, Omaha, NE 68102,  
 14 out of the Roads Operations Cash Fund. 241,000.00  
 15 The claim included in this section shall be paid through  
 16 Program 591 in Agency 65.  
 17 For informational purposes only, the appropriation  
 18 contained in this section and fund source:  
 19 GENERAL FUND -0-  
 20 CASH FUNDS 241,000.00  
 21 TOTAL 241,000.00  
 22 Sec. 3. There are hereby appropriated the following sums  
 23 of money, or so much thereof as may be required, from the indicated

24 fund in the state treasury, not otherwise appropriated, for the  
 1 payment of workers' compensation claims which have been settled by  
 2 the Attorney General or in which court judgments have been entered  
 3 and which require the approval of the Legislature for payment.

4 DESCRIPTION DOLLARS

5 Workers' compensation judgment, pay to Alice Jones  
 6 and Elaine A. Waggoner, Attorney, 216 North 11th  
 7 Street, Suite 301, Lincoln, NE 68508, out of the  
 8 Workers' Compensation Claims Revolving Fund. 116,285.76

9 Workers' compensation judgment, pay to Cynthia  
 10 Blodgett-McDeavitt and Stephen L. Gerdes, Attorney,  
 11 11920 Burt Street, #145, Omaha, NE 68154, out of the  
 12 Workers' Compensation Claims Revolving Fund. 28,604.66

13 Workers' compensation lump-sum settlement, pay to  
 14 Duane Saltz and Ralph Bradley, Attorney, 202 West 3rd  
 15 Street, Grand Island, NE 68802, out of the  
 16 Workers' Compensation Claims Revolving Fund. 35,000.00

17 The claims in this section shall be paid through Program  
 18 593 in Agency 65.

19 For informational purposes only, the appropriations  
 20 contained in this section and fund source:

21 REVOLVING FUNDS 179,890.42

22 TOTAL 179,890.42".

23 2. On page 3, line 17, strike "151,077.50" and insert  
 24 "153,332.58"; in line 22 strike "596,704.37" and insert  
 25 "598,959.45"; and in line 25 strike "644,437.06" and insert  
 26 "646,692.14".

27 3. On page 5, line 11, strike "1,450.00" and insert  
 1 "1,145.00".

2 4. Renumber the remaining sections accordingly.

(Signed) Douglas Cunningham, Chairperson

### AMENDMENTS - Print in Journal

Senator Chambers filed the following amendment to LB 57:

FA197

On page 2, in line 9 strike "Homo" and insert "Hetero".

Senator Chambers filed the following amendment to LB 57:

FA198

Add a new section: "The provisions of this act shall not apply until the individual member of Homo sapiens in utero has reached a stage of development where arms, legs, hands, feet and a head are present."

Senator Chambers filed the following amendment to LB 57:

FA199

On page 2 in lines 7, 8, 12, 13, 14, 17, 18, 20, 23, 24, 25; and on page 3, in line 11 strike "an unborn child" and insert "a fetus".

Senator Chambers filed the following amendment to LB 57:  
FA200

On page 2, after line 10 insert: "For purposes of this act, serious bodily injury means bodily injury which involves a substantial risk of serious permanent disfigurement, or a temporary or protracted loss or impairment of the function of any part or organ of the body."

Senator Friend filed the following amendment to LB 401:  
AM1314

(Amendments to Final Reading copy)

- 1 1. On page 2, line 19; and page 3, lines 3, 14, and 27,
- 2 strike the new matter.

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Combs asked unanimous consent to have her name added as cointroducer to LB 117. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 34 fourth-grade students and teachers from Sutton; and 40 fifth-grade students and teachers from Hawthorne Elementary School, Hastings.

### **ADJOURNMENT**

At 5:15 p.m., on a motion by Senator Byars, the Legislature adjourned until 9:00 a.m., Wednesday, April 27, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**SIXTY-NINTH DAY - APRIL 27, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SIXTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, April 27, 2005

**PRAYER**

The prayer was offered by Senator Heidemann.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Jensen who was excused; and Senators Cornett, Landis, D. Pederson, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-eighth day was approved.

**STANDING COMMITTEE REPORT  
Judiciary**

**LEGISLATIVE BILL 348.** Placed on General File as amended.  
(Standing Committee amendment, AM1332, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Patrick J. Bourne, Chairperson

**AMENDMENTS - Print in Journal**

Senator Chambers filed the following amendment to LB 57:  
FA202

Add a new section: "For purposes of this act, body means the stage of development where an individual member of the species Homo sapiens in utero possesses arms, legs, hands, feet, a head and organs including heart, lungs, kidneys, liver, spleen and stomach."

Senator Chambers filed the following amendment to LB 57:  
FA203

Add a new section: "The provisions of this act shall not apply until after an individual member of the species Homo sapiens in utero is of sufficient size to be visible without the aid of a microscope."

Senator Chambers filed the following amendment to LB 57:  
FA204

Add a new section: "No textbook shall be used in any public school which uses any term other than 'unborn child' to describe every stage of development in utero of a member of the species Homo sapiens from the point or instant of conception until birth whether vaginally or by caesarian section."

**GENERAL FILE**

**LEGISLATIVE BILL 117.** The first Standing Committee amendment, FA188, found on page 1301, was renewed.

Senator Beutler renewed his pending amendment, AM1316, found on page 1302, to the first Standing Committee amendment.

Senator Beutler withdrew his amendment.

**SENATOR SCHIMEK PRESIDING**

**SENATOR CUDABACK PRESIDING**

Senator Bourne moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Senator Chambers requested a record vote on the first Standing Committee amendment.

Voting in the affirmative, 43:

Aguilar	Connealy	Friend	Langemeier	Schimek
Baker	Cornett	Heidemann	McDonald	Schrock
Beutler	Cudaback	Hudkins	Mines	Smith
Bourne	Cunningham	Janssen	Pahls	Stuhr
Brashear	Engel	Johnson	Pederson, D.	Stuthman
Brown	Erdman	Kopplin	Preister	Synowiecki
Burling	Fischer	Kremer	Price	Wehrbein
Byars	Flood	Kruse	Raikes	
Combs	Foley	Landis	Redfield	

Voting in the negative, 0.

Present and not voting, 4:

Chambers      Howard      Louden      Pedersen, Dw.

Excused and not voting, 2:

Jensen      Thompson

The first Standing Committee amendment was adopted with 43 ayes, 0 nays, 4 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Pending.

### **SELECT COMMITTEE REPORTS** **Enrollment and Review**

**LEGISLATIVE BILL 70.** Placed on Select File as amended.

(E & R amendment, AM7088, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 70A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

### **AMENDMENTS - Print in Journal**

Senator Synowiecki filed the following amendment to LB 709:  
AM1323

(Amendments to Final Reading copy)

- 1 1. Insert the following new sections:
- 2 "Sec. 14. Sections 14 to 18 of this act shall be known
- 3 and may be cited as the Employer Public Health Services Report Act.
- 4 Sec. 15. The purpose of the Employer Public Health
- 5 Services Report Act is to require the compilation and reporting of
- 6 specified health benefit information relating to employers and
- 7 recipients of benefits under the medical assistance program
- 8 established in section 68-1018.
- 9 Sec. 16. All applicants for medical assistance benefits
- 10 under the medical assistance program established in section 68-1018
- 11 shall identify his or her employer or employers when making such
- 12 application. If the applicant is unemployed when making such
- 13 application, the applicant shall identify the employer or employers
- 14 of his or her spouse or financially responsible guardian.
- 15 Sec. 17. (1) The Department of Health and Human Services
- 16 Finance and Support, with the assistance and cooperation of the
- 17 Department of Health and Human Services, the Department of Labor,
- 18 and the Department of Revenue, shall compile and submit a report
- 19 annually to the Governor and the Legislature on or before January 5

20 as provided in this section.

21 (2) The report shall contain the following information  
22 with respect to employers which employ twenty-five or more persons  
23 who are recipients of medical assistance benefits under the medical  
1 assistance program established in section 68-1018:

2 (a) The name of the employer;

3 (b) The number of persons receiving medical assistance  
4 benefits who are employed by the employer;

5 (c) The number of persons receiving medical assistance  
6 benefits who are the spouse or dependent of such employees; and

7 (d) Whether the employer receives tax incentives under  
8 the Employment and Investment Growth Act, the Employment Expansion  
9 and Investment Act, including the Enterprise Zone Act, the Invest  
10 Nebraska Act, or the Rural Economic Opportunities Act.

11 Sec. 18. The report submitted under section 17 of this  
12 act shall be made available to the public and shall comply with all  
13 applicable provisions of the federal Health Insurance Portability  
14 and Accountability Act of 1996 and other applicable provisions of  
15 state and federal law, rules, and regulations."

16 2. On page 1, line 2, strike "and" and insert a comma;  
17 and in line 3 after "Act" insert ", and the Employer Public Health  
18 Services Report Act".

19 3. Renumber the remaining section accordingly.

Senators Brashear, Baker, Raikes, and Schrock filed the following  
amendment to LB 645:

AM1334

(Amendments to Standing Committee amendments, AM0316)

1 1. Strike amendment 1 and insert the following new  
2 amendment:

3 "1. Strike the original sections and all amendments  
4 thereto and insert the following new sections:

5 'Section 1. For purposes of sections 2 to 6 of this act:

6 (1) Broadband services means the offering of a capability  
7 for high-speed Broadband telecommunications capability at a speed  
8 or bandwidth in excess of two hundred kilobits per second that  
9 enables users to originate and receive high-quality voice, data,  
10 and video telecommunications using any technology;

11 (2) Internet services means the offering of Internet  
12 service provider services, providing voice over Internet protocol  
13 services, or providing Internet protocol-based video services;

14 (3) Public power supplier means a public power district,  
15 a public power and irrigation district, a municipal electric  
16 system, a joint entity formed under the Interlocal Cooperation Act,  
17 a joint public agency formed under the Joint Public Agency Act, an  
18 agency formed under the Municipal Cooperative Financing Act, or any  
19 other governmental entity providing electric service;

20 (4) Telecommunications has the same meaning as  
21 telecommunications defined in section 86-117;

- 22 (5) Telecommunications services has the same meaning as  
23 telecommunications service defined in section 86-121; and  
1 (6) Video services means the delivery of any subscription  
2 video service except those described in section 70-625.  
3 Sec. 2. (1) Except as provided in sections 79-1319,  
4 81-1120.01 to 81-1120.28, 85-401 to 85-418, 85-1501 to 85-1542, and  
5 86-575, an agency or political subdivision of the state shall not:  
6 (a) Provide on a retail or wholesale basis any broadband  
7 services, Internet services, telecommunications services, or video  
8 services;  
9 (b) Be issued a certificate of convenience and necessity  
10 as a telecommunications common carrier; or  
11 (c) Be issued a permit as a telecommunications contract  
12 carrier.  
13 (2) The provisions of subsection (1) of this section  
14 shall not apply to any public power supplier.  
15 Sec. 3. A public power supplier shall not provide on a  
16 retail basis any broadband services, Internet services,  
17 telecommunications services, or video services.  
18 Sec. 4. Nothing in sections 1 to 5 of this act shall  
19 prohibit or restrict the ability of an agency or political  
20 subdivision of the state or a public power supplier from deploying  
21 and utilizing broadband services, Internet services,  
22 telecommunications services, or video services, for its own use  
23 either individually or jointly through the Interlocal Cooperation  
24 Act, the Joint Public Agency Act, the Municipal Cooperative  
25 Financing Act for the internal use and purposes of the agency,  
26 political subdivision, or public power supplier or to carry out the  
27 public purposes of the agency, political subdivision, or public  
1 power supplier.  
2 Sec. 5. (1) Except as otherwise provided in section 3 of  
3 this act, nothing in this section shall be construed to restrict or  
4 expand any authority of a public power supplier as that authority  
5 existed prior to the effective date of this act.  
6 (2) Except as otherwise provided in sections 3 and 4 of  
7 this act, a public power supplier shall not provide on any basis  
8 broadband services, Internet services, telecommunications services,  
9 or video services.  
10 (3) This section terminates on December 31, 2007.  
11 Sec. 6. (1) The Broadband Services Task Force is  
12 created. The members shall be appointed as follows:  
13 (a) Three members appointed by the Executive Board of the  
14 Legislative Council;  
15 (b) Three members appointed by the Governor;  
16 (c) Three members of the Public Service Commission;  
17 (d) Three members of the Nebraska Power Review Board or  
18 their designees; and  
19 (e) Three members of the Nebraska Information Technology  
20 Commission or their designees.

- 21 (2) Appointments under this section shall be completed  
22 within thirty days after the effective date of this act and  
23 reported to the Executive Board of the Legislative Council. The  
24 chairperson of the executive board shall convene the first meeting  
25 of the task force at which time the task force shall select a  
26 chairperson.
- 27 (3) On behalf of the task force, the Executive Board of  
1 the Legislative Council may contract for the services of a meeting  
2 facilitator and such other assistance as the task force deems  
3 necessary within the limits of the funds appropriated. In making  
4 its selection of a meeting facilitator, the committees shall  
5 consider experience in the areas of telecommunications and public  
6 power. Expenses for the task force, if any, shall be within the  
7 appropriations to the Nebraska Information Technology Commission.
- 8 (4) Issues to be studied by the task force shall include,  
9 but are not limited to:
- 10 (a) The implications upon competition of agencies or  
11 political subdivisions of the state or public power suppliers  
12 offering infrastructure access for broadband services, Internet  
13 services, telecommunications services, and video services and  
14 private sector investment in networks for the provision of such  
15 services;
- 16 (b) The need and necessity for the provision of wholesale  
17 broadband services, Internet services, telecommunications services,  
18 or video services by agencies or political subdivisions of the  
19 state and public power suppliers;
- 20 (c) Issues regarding the establishment of fair and  
21 equitable requirements for the regulation and taxation of the  
22 provision of wholesale broadband services, Internet services,  
23 telecommunications services, and video services by agencies or  
24 political subdivisions of the state and public power suppliers;
- 25 (d) An assessment of the extent and availability of  
26 public power infrastructure in the state and an evaluation of how  
27 such infrastructure could be utilized to enhance the provision of  
1 broadband services, Internet services, telecommunications services,  
2 and video services to consumers and businesses and the feasibility  
3 of using such technology in all regions of the state;
- 4 (e) A determination of how parity could be established  
5 for competing interests in the provision of broadband services,  
6 Internet services, telecommunications services, and video services,  
7 including, but not limited to, the amount of property taxes paid,  
8 income taxes, in lieu of tax payments paid, gross receipts taxes,  
9 sales taxes paid, tax credits and funds provided under current  
10 federal and state laws, and financing capabilities, including  
11 shareholder equity; and
- 12 (f) An evaluation of the statutory and regulatory  
13 frameworks of other states' publicly owned utilities as they relate  
14 to providing broadband services, Internet services,  
15 telecommunications services, and video services.

16 (5) The task force shall study the issues described in  
17 subsection (4) of this section, identify options for resolution of  
18 such issues, and make recommendations to the Legislature and the  
19 Governor relating to any policy changes the task force deems  
20 desirable. The task force shall complete its work by December 1,  
21 2006, and submit its report to the Legislature, the Governor, the  
22 Natural Resources Committee of the Legislature, and the  
23 Transportation and Telecommunications Committee of the Legislature  
24 by such date.

25 (6) This section terminates on December 1, 2006.

26 Sec. 7. Section 25-2602.01, Revised Statutes Supplement,  
27 2004, is amended to read:

1 25-2602.01. (a) A written agreement to submit any  
2 existing controversy to arbitration is valid, enforceable, and  
3 irrevocable except upon such grounds as exist at law or in equity  
4 for the revocation of any contract.

5 (b) A provision in a written contract to submit to  
6 arbitration any controversy thereafter arising between the parties  
7 is valid, enforceable, and irrevocable, except upon such grounds as  
8 exist at law or in equity for the revocation of any contract, if  
9 the provision is entered into voluntarily and willingly.

10 (c) The Uniform Arbitration Act applies to arbitration  
11 agreements between employers and employees or between their  
12 respective representatives.

13 (d) Contract provisions agreed to by the parties to a  
14 contract control over contrary provisions of the act other than  
15 subsections (e) and (f) of this section.

16 (e) Subsections (a) and (b) of this section do not apply  
17 to a claim for workers' compensation.

18 (f) Subsection (b) of this section does not apply to:

19 (1) A claim arising out of personal injury based on tort;

20 (2) A claim under the Nebraska Fair Employment Practice  
21 Act;

22 (3) Any agreement between parties covered by sections  
23 60-1401.01 to 60-1440; and

24 (4) Except as provided in section 44-811, any agreement  
25 concerning or relating to an insurance policy other than a contract  
26 between insurance companies including a reinsurance contract.

27 (g) When a conflict exists, the Uniform Arbitration Act  
1 shall not apply to the Uniform Act on Interstate Arbitration and  
2 Compromise of Death Taxes and sections 44-811, 44-4824, 54-404 to  
3 54-406, 60-2701 to 60-2709, and 70-1301 to 70-1329; ~~and 86-588~~  
4 ~~to 86-590.~~

5 Sec. 8. Section 86-575, Revised Statutes Supplement,  
6 2004, is amended to read:

7 86-575. (1) Any agency or political subdivision of the  
8 state may:

9 (a) Own dark fiber;

10 (b) Sell dark fiber pursuant to section 86-576; and

11 (c) Lease dark fiber pursuant to section 86-577.  
 12 (2) ~~No agency or political subdivision of the state shall~~  
 13 ~~provide telecommunications services for a fee, except as authorized~~  
 14 ~~in sections 79-1319, 81-1120.01 to 81-1120.28, 85-401 to 85-418,~~  
 15 ~~and 85-1501 to 85-1542, or be issued a certificate of convenience~~  
 16 ~~and necessity as a telecommunications common carrier or a permit as~~  
 17 ~~a telecommunications contract carrier.~~ Any agency or political  
 18 subdivision which sells or leases its dark fiber pursuant to  
 19 sections 86-574 to 86-578 shall not be deemed to be providing  
 20 telecommunications services ~~for a fee~~ as defined in section 1 of  
 21 this act.  
 22 Sec. 9. Original sections 25-2602.01 and 86-575, Revised  
 23 Statutes Supplement, 2004, are repealed.  
 24 Sec. 10. The following sections are outright repealed:  
 25 Sections 86-581 to 86-592, Revised Statutes Supplement, 2004.'".

### GENERAL FILE

**LEGISLATIVE BILL 117.** The second Standing Committee amendment is as follows:

FA189

20 (16) Any person knowingly or intentionally possessing a  
 21 firearm while in violation of subsection (1) of this section shall  
 22 be punished by the next higher penalty classification than the  
 23 penalty prescribed in subsection (2), (7), (8), (9), or (10) of  
 24 this section, but in no event shall such person be punished by a  
 25 penalty greater than a Class IB felony.

### SENATOR JANSSEN PRESIDING

Pending.

### VISITORS

Visitors to the Chamber were Larissa Wittrock from Humboldt; 62 fourth-grade students and teachers from Hickory Hill Elementary School, Papillion; 42 fifth-grade students and teachers from Howard Elementary School, Fremont; 12 third- and fourth-grade students and teacher from Nebraska Christian School, Central City; and 37 fourth-grade students and teachers from Portal Elementary School, La Vista.

### RECESS

At 11:57 a.m., on a motion by Senator Howard, the Legislature recessed until 1:30 p.m.

### AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

## ROLL CALL

The roll was called and all members were present except Senator Jensen who was excused; and Senators Byars, Cunningham, Engel, Fischer, Foley, Landis, Loudon, McDonald, Raikes, Schimek, and Wehrbein who were excused until they arrive.

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 93.** Introduced by Kopplin, 3; Cornett, 45; Langemeier, 23; Dw. Pedersen, 39; Preister, 5; Thompson, 14; Wehrbein, 2.

WHEREAS, Pat Thomas was appointed Sarpy County sheriff in 1973; and

WHEREAS, Sheriff Pat Thomas has been re-elected eight times; and

WHEREAS, Sheriff Pat Thomas has served the citizens of Sarpy County for 32 years; and

WHEREAS, Sheriff Pat Thomas will retire as sheriff of Sarpy County on May 1, 2005.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Sheriff Pat Thomas on his faithful service to the citizens of Sarpy County.

2. That a copy of this resolution be sent to Sheriff Pat Thomas.

Laid over.

**LEGISLATIVE RESOLUTION 94.** Introduced by Kopplin, 3.

WHEREAS, the Gretna High School Speech Team won first place in Class B at the Nebraska State Speech Tournament with the accumulated points of many individual medalists; and

WHEREAS, the Gretna High School Speech Team has been state runner-up for the last four years and last won the tournament in 1994; and

WHEREAS, team members said winning the team championship was as exciting as winning medals in individual events; and

WHEREAS, the Legislature is proud to recognize the team and individual successes of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That coaches Carole Carraher, Blaine Christen, and Travis Miller, and the members of the Gretna High School Speech Team, Kara Brown, Jessica Duin, Matt Eledge, Michael Fischer, Julia Glendenning, Nick Hartnett, Nathan Jones, Zach Klebba, Micalah Magee, Brendan McManus, Laura Miller, Lindsey Morton, Anna Phelan, Chelsea Richardson, Abby Stenberg, Seth Stednitz, and Ashleigh Winje be congratulated for their success.

2. That a copy of this resolution be sent to the Gretna High School Speech

Team.

Laid over.

### **AMENDMENT - Print in Journal**

Senator Schimek filed the following amendment to LR 12CA:  
AM0899

- 1 1. On page 1, line 3, strike "the general election in  
2 November 2006" and insert "a special election on May 9, 2006,".

### **GENERAL FILE**

**LEGISLATIVE BILL 117.** The second Standing Committee amendment, FA189, found in this day's Journal, was renewed.

Senator Bourne moved for a call of the house. The motion prevailed with 21 ayes, 1 nay, and 27 not voting.

The second Standing Committee amendment was adopted with 36 ayes, 1 nay, 2 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

The third Standing Committee amendment is as follows:  
FA190

- 11 (d) Sold by a person, nineteen years of age or older, in  
12 the course of his or her employment to a customer, eighteen years  
13 of age or older, with the following restrictions:

Senator Chambers offered the following amendment to the third Standing Committee amendment:

FA205

Amend FA190

In lines 12 and 13, strike "to a customer, eighteen years of age or older".

Senator Chambers moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

The Chambers amendment lost with 4 ayes, 28 nays, 14 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

**NOTICE OF COMMITTEE HEARING**  
**Judiciary**  
**Room 1113**

LR 76                      Tuesday, May 10, 2005                      12:00 p.m.

Tuesday, May 10, 2005                      12:00 p.m.  
Robert Houston - Correctional Services, Department of

(Signed) Patrick J. Bourne, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 95.** Introduced by Fischer, 43.

WHEREAS, Danny Lindvall, son of Mark and Rachel Lindvall of Valentine, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Danny Lindvall has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. For his Eagle Scout community service project, Danny constructed a photo blind for Prairie Chicken's at the Valentine National Wildlife Refuge; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Danny Lindvall has received the rank of Eagle Scout, thereby, through his hard work and perseverance, joining other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Danny Lindvall on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Danny Lindvall.

Laid over.

**GENERAL FILE**

**LEGISLATIVE BILL 117.** The third Standing Committee amendment, FA190, found in this day's Journal, was renewed.

Senator Bourne moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

The third Standing Committee amendment was adopted with 43 ayes, 0 nays, 3 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

The fourth Standing Committee amendment is as follows:

FA191

14 (i) No customer shall be allowed to purchase, receive, or  
15 otherwise acquire more than one thousand four hundred forty  
16 milligrams of pseudoephedrine base or one thousand four hundred  
17 forty milligrams of phenylpropanolamine base during a  
18 twenty-four-hour period; and

#### **SENATOR SCHIMEK PRESIDING**

#### **SENATOR CUDABACK PRESIDING**

Senator Bourne moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

The fourth Standing Committee amendment was adopted with 42 ayes, 0 nays, 2 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

The fifth Standing Committee amendment is as follows:

FA192

19 (ii) The customer shall display an operator's license or  
20 state identification card as proof of identification; and

Senator Beutler reoffered his amendment, AM1181, found on page 1189 and considered on page 1301, to the fifth Standing Committee amendment.

Pending.

#### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 605A.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 605, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

**AMENDMENT - Print in Journal**

Senator Chambers filed the following amendment to LB 709:  
AM1345

(Amendments to Final Reading copy)

- 1 1. Insert the following new section:
- 2 "Sec. 14. Notwithstanding any other provision of law,
- 3 the Director of Health and Human Services and the Tax Commissioner
- 4 shall annually prepare an employee health benefit report. The
- 5 report shall provide the following information for each business
- 6 which has signed an agreement to receive tax incentives under the
- 7 Employment and Investment Growth Act, the Employment Expansion and
- 8 Investment Incentive Act, including the Enterprise Zone Act, the
- 9 Invest Nebraska Act, or the Rural Economic Opportunities Act:
- 10 (1) The name and address of the business;
- 11 (2) The number of full-time and part-time employees of
- 12 the business;
- 13 (3) Whether the business offers health benefits to its
- 14 employees, and if so, the nature and scope of the health benefits;
- 15 and
- 16 (4) The number of full-time and part-time employees and
- 17 the number of spouses or dependents of such employees who are
- 18 covered under health benefits offered by the business and the
- 19 nature and scope of such coverage.
- 20 The report shall be submitted annually on February 1 to
- 21 the Health and Human Services Committee of the Legislature and the
- 22 Revenue Committee of the Legislature."
- 23 2. On page 1, line 3, after the first semicolon insert
- 1 "to require an employee health benefit report;"
- 2 3. Renumber the remaining section accordingly.

**SELECT COMMITTEE REPORTS****Enrollment and Review**

**LEGISLATIVE BILL 40.** Placed on Select File as amended.

E & R amendment to LB 40:

AM7089

- 1 1. In the Redfield-Jensen-Synowiecki amendment, AM1227,
- 2 on page 5, line 17, strike "development" and insert
- 3 "developmental".
- 4 2. On page 1, strike beginning with "real" in line 1
- 5 through line 5 and insert "public health and welfare; to amend
- 6 sections 58-703, 58-706, 76-901, 76-903, and 77-1327, Reissue
- 7 Revised Statutes of Nebraska, and section 71-812, Revised Statutes
- 8 Supplement, 2004; to change and eliminate provisions relating to
- 9 the Affordable Housing Trust Fund, the Behavioral Health Services
- 10 Fund, and the documentary stamp tax; to harmonize provisions; to
- 11 provide an operative date; to repeal the original sections; and to
- 12 declare an emergency."

**LEGISLATIVE BILL 40A.** Placed on Select File as amended.

E & R amendment to LB 40A:

AM7090

- 1 1. On page 1, line 3, before the period insert "; and to
- 2 declare an emergency.

**LEGISLATIVE BILL 114.** Placed on Select File.

(Signed) Michael Flood, Chairperson

### **MESSAGE FROM THE GOVERNOR**

April 27, 2005

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 193e, 274, 276, 351e, 361e, 389, 389A, 503e, 503Ae, and 739 were received in my office on April 25, 2005.

These bills were signed by me and delivered to the Secretary of State on April 27, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

### **VISITORS**

Visitors to the Chamber were 8 fifth- and sixth-grade students and teacher from St. Mary's School, Osmond; 11 eighth-grade students and teacher from Lake Minatare School, Minatare; Betty Davis and James Davis Jr. from Washington, D.C.; members of the Waverly High School Leadership Academy; and Chris Amundson from Norfolk.

### **ADJOURNMENT**

At 5:02 p.m., on a motion by Senator Langemeier, the Legislature adjourned until 9:00 a.m., Thursday, April 28, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**SEVENTIETH DAY - APRIL 28, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SEVENTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, April 28, 2005

**PRAYER**

The prayer was offered by Pastor Matt Sass, Evangelical Free Church, Hastings.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Jensen and Thompson who were excused; and Senators Burling, Foley, Landis, and Raikes who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-ninth day was approved.

**REPORTS**

The following reports were received by the Legislature:

**Investment Finance Authority**

2002 Series A, B, C, D, E and F Community Development Loan Notes  
(City of Lincoln Program-2002) Quarterly Report  
Single Family Housing Revenue Bonds Series 2004 FG and General  
Obligation Bonds Series 2004 G.O.-18

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of April 27, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

King, Terry L.

Better Nebraska Association (Withdrawn 04/25/2005)

General Contractors of America, NE Chapter, Associated  
(Withdrawn 04/25/2005)

Weston, Deborah L.

ARC of Nebraska

## GENERAL FILE

**LEGISLATIVE BILL 645.** Title read. Considered.

The Standing Committee amendment, AM0316, found on page 482, was considered.

Senator Brashear withdrew his pending amendment, AM1036, found on page 1078.

Senator Brashear renewed the Brashear et al. pending amendment, AM1334, found on page 1318, to the Standing Committee amendment.

Pending.

## STANDING COMMITTEE REPORTS

### Appropriations

**LEGISLATIVE BILL 421.** Placed on General File as amended.

(Standing Committee amendment, AM1240, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 422.** Placed on General File as amended.

Standing Committee amendment to LB 422:

AM1295

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. APPROPRIATION LANGUAGE.
- 4 There is hereby appropriated, for FY2005-06 and
- 5 FY2006-07, the sums specified in this act, or so much as may be
- 6 necessary, for the salaries and benefits of officers of the
- 7 Nebraska state government.
- 8 Sec. 2. DEFINITION OF APPROPRIATION PERIOD.
- 9 For purposes of this act, FY2005-06 means the period
- 10 beginning July 1, 2005, and ending June 30, 2006, and FY2006-07
- 11 means the period beginning July 1, 2006, and ending June 30, 2007.
- 12 Sec. 3. NEBRASKA INFORMATION SYSTEM MANUAL DEFINITIONS.
- 13 The definitions contained in the Nebraska Information
- 14 System Manual, and any amendments thereto, on file with the Clerk
- 15 of the Legislature are hereby adopted by the Legislature as the
- 16 definitions for this act, except as provided in section 21 of this

17 act.

18 Sec. 4. DRAWING AND PAYING WARRANTS.

19 The Director of Administrative Services shall draw  
20 warrants upon the proper fund in the state treasury for an amount  
21 not to exceed the appropriations set forth in this act upon  
22 presentation of proper documentation. The State Treasurer shall  
23 pay the warrants out of the appropriate funds.

24 For fiscal years beginning on or after July 1, 2005,

1 workers' compensation premium assessments shall not be paid from  
2 the programs listed in this act.

3 Sec. 5. AGENCY NO. 5 -- SUPREME COURT

4 Program No. 3 - Supreme Court Judges' Salaries

5	FY2005-06	FY2006-07
6 GENERAL FUND	952,726	960,108
7 PROGRAM TOTAL	952,726	960,108
8 SALARY LIMIT	834,933	834,933

9 Sec. 6. AGENCY NO. 5 -- SUPREME COURT

10 Program No. 4 - Court of Appeals Judges' Salaries

11	FY2005-06	FY2006-07
12 GENERAL FUND	783,971	790,289
13 PROGRAM TOTAL	783,971	790,289
14 SALARY LIMIT	679,874	679,874

15 Sec. 7. AGENCY NO. 5 -- SUPREME COURT

16 Program No. 5 - Retired Judges' Salaries

17	FY2005-06	FY2006-07
18 GENERAL FUND	25,000	25,000
19 PROGRAM TOTAL	25,000	25,000
20 SALARY LIMIT	25,000	25,000

21 The budget division of the Department of Administrative  
22 Services is hereby authorized to administratively transfer General  
23 Fund appropriations among Programs 3, 4, 5, 6, and 7 within Agency  
24 5, upon written certification by the State Court Administrator that  
25 excess appropriations are available and are necessary to pay  
26 retired judges' salaries or are necessary to adjust for program  
27 shortfalls in Agency 5, Programs 3, 4, 6, and 7. The Salary Limit

1 for Agency 5, Program 5, may be administratively increased for any  
2 transfers made to Program 5 pursuant to this section.

3 Sec. 8. AGENCY NO. 5 -- SUPREME COURT

4 Program No. 6 - District and Juvenile Court Judges'  
5 Salaries

6	FY2005-06	FY2006-07
7 GENERAL FUND	8,227,259	8,289,703
8 PROGRAM TOTAL	8,227,259	8,289,703
9 SALARY LIMIT	7,171,470	7,171,470

10 Sec. 9. AGENCY NO. 5 -- SUPREME COURT

11 Program No. 7 - County Court Judges' Salaries

12	FY2005-06	FY2006-07
13 GENERAL FUND	7,195,857	7,251,451
14 PROGRAM TOTAL	7,195,857	7,251,451

15	SALARY LIMIT	6,333,556	6,333,556
16	Sec. 10. AGENCY NO. 7 -- GOVERNOR		
17	Program No. 2 - Salary - Governor		
18		FY2005-06	FY2006-07
19	GENERAL FUND	110,423	112,019
20	PROGRAM TOTAL	110,423	112,019
21	SALARY LIMIT	85,000	85,000
22	Sec. 11. AGENCY NO. 8 -- LIEUTENANT GOVERNOR		
23	Program No. 8 - Salary - Lieutenant Governor		
24		FY2005-06	FY2006-07
25	GENERAL FUND	81,299	82,975
26	PROGRAM TOTAL	81,299	82,975
27	SALARY LIMIT	60,000	60,000
1	Sec. 12. AGENCY NO. 9 -- SECRETARY OF STATE		
2	Program No. 9 - Salary - Secretary of State		
3		FY2005-06	FY2006-07
4	GENERAL FUND	82,851	83,902
5	PROGRAM TOTAL	82,851	83,902
6	SALARY LIMIT	65,000	65,000
7	Sec. 13. AGENCY NO. 10 -- AUDITOR OF PUBLIC ACCOUNTS		
8	Program No. 10 - Salary - Auditor		
9		FY2005-06	FY2006-07
10	GENERAL FUND	80,637	82,167
11	PROGRAM TOTAL	80,637	82,167
12	SALARY LIMIT	60,000	60,000
13	Sec. 14. AGENCY NO. 11 -- ATTORNEY GENERAL		
14	Program No. 11 - Attorney General's Salary		
15		FY2005-06	FY2006-07
16	GENERAL FUND	97,379	99,281
17	PROGRAM TOTAL	97,379	99,281
18	SALARY LIMIT	75,000	75,000
19	Sec. 15. AGENCY NO. 12 -- STATE TREASURER		
20	Program No. 12 - Salary - State Treasurer		
21		FY2005-06	FY2006-07
22	GENERAL FUND	77,526	78,324
23	PROGRAM TOTAL	77,526	78,324
24	SALARY LIMIT	60,000	60,000
25	Sec. 16. AGENCY NO. 14 -- PUBLIC SERVICE COMMISSION		
26	Program No. 14 - Salaries of Public Service Commissioners		
27		FY2005-06	FY2006-07
1	GENERAL FUND	331,670	336,737
2	PROGRAM TOTAL	331,670	336,737
3	SALARY LIMIT	250,000	250,000
4	Sec. 17. AGENCY NO. 15 -- BOARD OF PARDONS AND BOARD OF		
5	PAROLE		
6	Program No. 320 - Board of Parole Salaries		
7		FY2005-06	FY2006-07
8	GENERAL FUND	418,919	436,415
9	PROGRAM TOTAL	418,919	436,415

10 SALARY LIMIT	328,601	340,843
11 Sec. 18. AGENCY NO. 16 -- DEPARTMENT OF REVENUE		
12 Program No. 13 - Tax Commissioner		
13	FY2005-06	FY2006-07
14 GENERAL FUND	114,529	117,937
15 PROGRAM TOTAL	114,529	117,937
16 SALARY LIMIT	95,283	98,135

17 It is the intent of the Legislature that if the  
 18 appropriation or the salary limit is insufficient in this program  
 19 to meet anticipated expenditures, the Tax Commissioner shall  
 20 request additional funds or a higher salary limit, or both, from  
 21 the Legislature by the usual deficit process. The appropriation or  
 22 the salary limit shall not be administratively increased solely by  
 23 the Department of Administrative Services without legislative  
 24 authorization.

25 Sec. 19. AGENCY NO. 37 -- NEBRASKA WORKERS' COMPENSATION  
 26 COURT

27 Program No. 526 - Judges' Salaries

1	FY2005-06	FY2006-07
2 CASH FUND	888,525	895,678
3 PROGRAM TOTAL	888,525	895,678
4 SALARY LIMIT	772,312	772,312

5 Sec. 20. AGENCY NO. 37 -- NEBRASKA WORKERS' COMPENSATION  
 6 COURT

7 Program No. 635 - Retired and Acting Judges' Salaries

8	FY2005-06	FY2006-07
9 CASH FUND	55,267	55,267
10 PROGRAM TOTAL	55,267	55,267
11 SALARY LIMIT	51,339	51,339

12 Sec. 21. LIMITATION ON SALARIES, WAGES, AND PER DIEMS.

13 (1) As used in this act:

14 (a) SALARY LIMIT means total expenditures for permanent  
 15 and temporary salaries and per diems; and

16 (b) Total expenditures for permanent and temporary  
 17 salaries and per diems means all remuneration paid to employees  
 18 treated as taxable compensation by the Internal Revenue Service or  
 19 subject to social security coverage, specifically including  
 20 payments accounted for as vacation, holidays, sick leave, military  
 21 leave, funeral leave, maternity leave, administrative leave,  
 22 compensatory time, deferred compensation, or any other similar  
 23 form, and amounts withheld pursuant to law, but excluding state  
 24 contributions for social security, retirement, and employee  
 25 insurance plans.

26 (2) Total expenditures for permanent and temporary  
 27 salaries and per diems are limited to the amount provided by law  
 1 for constitutional officers.

2 (3) The limitation on expenditures for permanent and  
 3 temporary salaries and per diems for FY2006-07 shall be increased  
 4 by amounts encumbered from FY2005-06 for permanent and temporary

5 salaries and per diems. Encumbered amounts shall be calculated in  
6 accordance with section 81-138.01.

7 Sec. 22. This act becomes operative on July 1, 2005.

8 Sec. 23. Since an emergency exists, this act takes

9 effect when passed and approved according to law."

**LEGISLATIVE BILL 423.** Placed on General File.

**LEGISLATIVE BILL 424.** Placed on General File as amended.

(Standing Committee amendment, AM1284, is printed separately and  
available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 425.** Placed on General File as amended.

(Standing Committee amendment, AM0521, is printed separately and  
available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 426.** Placed on General File as amended.

(Standing Committee amendment, AM1282, is printed separately and  
available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 427.** Placed on General File as amended.

Standing Committee amendment to LB 427:

AM1288

1 1. Strike the original sections and insert the following

2 new sections:

3 "Section 1. Section 84-612, Revised Statutes Supplement,  
4 2004, is amended to read:

5 84-612. (1) There is hereby created within the state  
6 treasury a fund known as the Cash Reserve Fund which shall be under  
7 the direction of the State Treasurer. The fund shall only be used  
8 pursuant to this section.

9 (2) The State Treasurer shall transfer funds from the  
10 Cash Reserve Fund to the General Fund upon certification by the  
11 Director of Administrative Services that the current cash balance  
12 in the General Fund is inadequate to meet current obligations.  
13 Such certification shall include the dollar amount to be  
14 transferred. Any transfers made pursuant to this subsection shall  
15 be reversed upon notification by the Director of Administrative  
16 Services that sufficient funds are available.

17 (3) ~~On July 23, 2001, the State Treasurer shall transfer~~  
18 ~~three hundred seventy thousand dollars from the Cash Reserve Fund~~  
19 ~~to the Municipal Natural Gas Regulation Revolving Loan Fund for~~  
20 ~~purposes of loaning to Nebraska communities that seek to review~~  
21 ~~natural gas rates. Any transfer made pursuant to this subsection~~  
22 ~~shall be reversed upon notification by the Director of Policy~~  
23 ~~Research that a sufficient court judgment has been obtained. Upon~~  
24 ~~reversal, any money in excess of three hundred seventy thousand~~  
1 ~~dollars shall be transferred to the Municipal Rate Negotiations~~  
2 ~~Revolving Loan Fund.~~

- 3 (4) On June 15, 2004, the State Treasurer shall transfer  
4 ~~three million dollars from the Cash Reserve Fund to the General~~  
5 ~~Fund.~~
- 6 (5) On June 15, 2005, the State Treasurer shall transfer  
7 twenty-six million dollars from the Cash Reserve Fund to the  
8 General Fund.
- 9 (6) (4) The State Treasurer, at the direction of the  
10 budget administrator of the budget division of the Department of  
11 Administrative Services, shall transfer such amounts not to exceed  
12 ~~five million seven hundred twenty-seven thousand seven hundred~~  
13 ~~seven seven million seven hundred fifty-three thousand two hundred~~  
14 ~~sixty-three~~ dollars in total from the Cash Reserve Fund to the  
15 Nebraska Capital Construction Fund between July 1, 2003, and June  
16 30, 2007.
- 17 (7) (5) The State Treasurer, at the direction of the  
18 budget administrator, shall transfer an amount equal to the total  
19 amount transferred pursuant to subsection (6) (4) of this section  
20 from the General Fund to the Cash Reserve Fund on or before June  
21 30, 2008.
- 22 (8) (6) In addition to receiving transfers from other  
23 funds, the Cash Reserve Fund shall receive federal funds received  
24 by the State of Nebraska for undesignated general government  
25 purposes, federal revenue sharing, or general fiscal relief of the  
26 state.
- 27 (9) ~~The State Treasurer, at the direction of the budget~~  
1 ~~administrator of the budget division of the Department of~~  
2 ~~Administrative Services, shall transfer fifty-eight million one~~  
3 ~~hundred ninety-one thousand eight hundred sixty-two dollars from~~  
4 ~~the Cash Reserve Fund to the General Fund on or before June 30,~~  
5 ~~2004. There is included in this subsection a transfer of~~  
6 ~~fifty-eight million one hundred ninety-one thousand eight hundred~~  
7 ~~sixty-two dollars of federal payments made to the State of Nebraska~~  
8 ~~under the Jobs and Growth Tax Relief Reconciliation Act of 2003 to~~  
9 ~~the General Fund for purposes of providing essential government~~  
10 ~~services such as health care and education as appropriated from the~~  
11 ~~General Fund for fiscal year 2003-04 in Laws 2003, LB 407.~~
- 12 (7) On July 29, 2005, the State Treasurer shall transfer  
13 one hundred forty-five million eight hundred eleven thousand three  
14 hundred sixty-eight dollars from the Cash Reserve Fund to the  
15 Low-Level Radioactive Waste Settlement Fund.
- 16 (8) On June 15, 2007, the State Treasurer shall transfer  
17 fifteen million six hundred seventy-four thousand one hundred seven  
18 dollars from the Cash Reserve Fund to the General Fund.
- 19 (9) On June 15, 2008, the State Treasurer shall transfer  
20 seventeen million nine hundred thirty-one thousand thirty dollars  
21 from the Cash Reserve Fund to the General Fund.
- 22 (10) On June 15, 2009, the State Treasurer shall transfer  
23 four million nine hundred ninety thousand five hundred five dollars  
24 from the Cash Reserve Fund to the General Fund.

- 25 Sec. 2. Original section 84-612, Revised Statutes  
26 Supplement, 2004, is repealed.  
27 Sec. 3. Since an emergency exists, this act takes effect  
1 when passed and approved according to law."

**LEGISLATIVE BILL 614.** Placed on General File as amended.  
Standing Committee amendment to LB 614:  
AM0997

- 1 1. Strike original section 3.
- 2 2. Renumber the remaining section accordingly.

**LEGISLATIVE BILL 746.** Placed on General File as amended.  
Standing Committee amendment to LB 746:  
AM1308

- 1 1. Strike original sections 3 and 5 and insert the
- 2 following new section:
- 3 "Sec. 3. The Civil Legal Services Program is created.
- 4 Appropriations to the program shall be used to provide grants for
- 5 civil legal services to eligible low-income persons. The State
- 6 Court Administrator shall distribute grants pursuant to section 4
- 7 of this act."

(Signed) Don Pederson, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 645.** The Brashear et al. pending amendment, AM1334, found on page 1318 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

### SENATOR JANSSEN PRESIDING

### SENATOR CUDABACK PRESIDING

Senator Brashear moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

The Brashear et al. amendment was adopted with 34 ayes, 1 nay, 9 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Connealy offered the following amendment to the Standing Committee amendment:  
AM1351

- 1 1. In AM1334:
- 2 a. On page 2, line 6, strike "or wholesale"; after line
- 3 14 insert:
- 4 "(3) This section terminates on December 31, 2007."; in

5 line 15 before "A" insert "(1)"; and after line 17 insert:  
 6 "(2) This section terminates on December 31, 2007."; and  
 7 b. On page 3, strike lines 6 through 9; and in line 10  
 8 strike "(3)" and insert "(2)".

Pending.

## RESOLUTION

**LEGISLATIVE RESOLUTION 96.** Introduced by Byars, 30.

**PURPOSE:** The purpose of this study is to examine the Internet, telephone, and mail order sale of tobacco products. The study shall include, but not be limited to:

- (1) Examination of the nature and extent of such sales;
- (2) The role of such sales in making tobacco products available to under-age purchasers;
- (3) The quantity of revenue lost to the State of Nebraska by virtue of such sales; and
- (4) Efforts which have been undertaken in other states to regulate and tax such sales and the effectiveness of these efforts.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

## AMENDMENTS - Print in Journal

Senator Redfield filed the following amendment to LB 682:  
 AM1325

(Amendments to Final Reading copy)

- 1 1. On page 3, strike lines 10 through 26, and insert the
- 2 following new subsection:
- 3 "(3) If a vacancy occurs in such office at any time other
- 4 than as described in subsection (1) or (2) of this section, the
- 5 Governor shall order a special election to be held within ninety
- 6 days after the vacancy occurs. Each political party which polled
- 7 at least five percent of the entire vote in the district in which
- 8 the vacancy occurs may select a candidate following the applicable
- 9 procedures in subsection (2) of section 32-627, except that the
- 10 certificate and filing fee shall be submitted at least sixty-five
- 11 days prior to the day of the election. Any candidate so selected
- 12 shall have his or her name placed on the ballot with the
- 13 appropriate political party designation. Any other person may have

14 his or her name placed on the ballot without a political party  
15 designation by filing petitions pursuant to sections 32-617 and  
16 32-618 and paying the filing fee as provided by section 32-608,  
17 except that the deadline for filing the petitions and paying the  
18 fee shall be sixty-five days prior to the day of the election. The  
19 candidate receiving the most votes at such special election shall  
20 serve for the remainder of the vacated term.".

Senator Bourne filed the following amendment to LB 348:  
AM1355

(Amendments to Standing Committee amendments, AM1332)

- 1 1. On page 1, lines 16 and 17, strike "twenty-three
- 2 thousand one hundred fifty-two" and insert "twenty-six thousand
- 3 eight hundred forty-six".

Senator Foley filed the following amendment to LB 425:  
AM1330

(Amendments to Standing Committee amendments, AM0521)

- 1 1. On page 36, strike line 5 and insert "FEDERAL FUND
- 2 est. 13,486,723 13,831,310"; strike line 6 and insert "PROGRAM
- 3 TOTAL 29,775,289 30,540,339"; and after line 16 insert:
- 4 "There is included in the appropriation to this program
- 5 for FY2005-06 \$250,000 Federal Temporary Assistance For Needy
- 6 Families (TANF) Funds to be used for a grant from Program 177 for
- 7 the purposes described in this section. There is included in the
- 8 appropriation to this program for FY2006-07 \$250,000 Federal
- 9 Temporary Assistance For Needy Families (TANF) Funds to be used for
- 10 a grant from Program 177 for the purposes described in this
- 11 section. Funds shall be used for a pilot program to provide
- 12 assistance to women who are pregnant or who believe they may be
- 13 pregnant.
- 14 It is the intent of the Legislature that the department
- 15 shall conduct a competitive solicitation for a grant award to a
- 16 nonprofit entity to act as a service provider to conduct the pilot
- 17 program. In order to qualify for a grant from this appropriation,
- 18 the applicant selected shall have demonstrated experience operating
- 19 a program that has a stated purpose of assisting pregnant women
- 20 with services consistent with those anticipated in the pilot
- 21 program. The pilot program shall not refer for, perform, or
- 22 counsel for abortions and shall be physically and financially
- 23 separate from any program that refers for, performs, or counsels
- 1 for abortions.
- 2 Services of the recipient nonprofit entity that are
- 3 consistent with the purpose of this program include, but are not
- 4 limited to, the provision of maternity and infant clothing, food,
- 5 and supplies, information about pregnancy and medical services, and
- 6 information on adoption, nutrition, parenting, and the availability
- 7 of additional public and private assistance to pregnant women and
- 8 mothers of newborn children."

**VISITORS**

Visitors to the Chamber were 28 fifth-grade students and teachers from Christ the King School, Omaha; 59 fifth-grade students and teacher from Sacred Heart Elementary School, Norfolk; 7 fifth- and sixth-grade students and teacher from Oconto; former Senator Floyd Vrtiska and his wife Doris; 40 fourth-grade students and teachers from Woodland Park Elementary School, Norfolk; 28 fourth-grade students and teachers from Wood River; 58 fourth-grade students and teacher from Fillmore Central Elementary School, Geneva; and Patti, Nathanael, Noah, and Dorielle Sass from Hastings.

**ADJOURNMENT**

At 11:59 a.m., on a motion by Senator Stuthman, the Legislature adjourned until 10:00 a.m., Tuesday, May 3, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**SEVENTY-FIRST DAY - MAY 3, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SEVENTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, May 3, 2005

**PRAYER**

The prayer was offered by Pastor Michael Sears, St. Frances of Rome, Azusa, California.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Dw. Pedersen who was excused; and Senators Chambers, Cornett, Landis, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

Page 1329, line 22, strike "Nebraska" and insert "Investment".  
The Journal for the seventieth day was approved as corrected.

**COMMUNICATIONS**

April 27, 2005

Mr. Patrick J. O'Donnell  
Clerk of the Legislature  
P.O. Box 94604  
Lincoln, NE 68509-4604

RE: Nebraska Revised Statutes (Reissue 1999), Section 85-408

Dear Mr. O'Donnell:

Pursuant to the listed statute regarding the expenditure of surplus or replacement funds, the Coordinating Commission for Postsecondary Education has reviewed the following projects at its meeting on April 26, 2005:

University of Nebraska-Lincoln - City Campus: Harper/Schramm/Smith Dining Services Facility Renovation Surplus Fund Increase, and

Wayne State College: Parking Lots Improvements.

The Coordinating Commission is recommending approval of each of these proposals. Enclosed is the Commission's evaluation form for each proposal.

Our understanding is that these proposals now require the review and approval of the Executive Board of the Legislative Council or the Legislature pursuant to the same section of the statutes. The University of Nebraska and Nebraska State Colleges will be submitting formal requests for your review.

Please give Mr. Mike Wemhoff, Facilities Officer (471-0028) or me a call if you have any questions.

Cordially,  
(Signed) Marshall A. Hill

mah/maw

Enclosures (2)

cc: Jean M. Dale (letter only)  
Phil Hovis (letter only)  
Rebecca Koller (letter only)  
Kathy Tenopir (letter only)  
David G. Wagaman (letter only)

April 28, 2005

Senator Pat Engel  
Chairman, Executive Board  
Room 2010, State Capitol  
Lincoln, NE 68509

Dear Senator Engel,

Enclosed is correspondence from Marshall A. Hill, Executive Director of the Coordinating Commission for Postsecondary Education. The correspondence relates to the expenditure of surplus or replacement funds for the following:

University of Nebraska-Lincoln - City Campus: Harper/Schramm/Smith Dining Services Facility Renovation Surplus Fund Increase  
Wayne State College: Parking Lots Improvements.

I am forwarding this correspondence to you for Executive Board action.

Sincerely,  
(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

PJO:jk

## **BILLS ON FINAL READING**

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 38 with 39 ayes, 1 nay, 4 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 38.** With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 85-1503 and 85-1517, Reissue Revised Statutes of Nebraska, and sections 13-519, 77-3442, and 85-1536.01, Revised Statutes Supplement, 2004; to change budget and levy authority for community colleges as prescribed; to define and redefine terms; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 31:

Aguilar	Connealy	Janssen	Pahls	Stuhr
Baker	Cornett	Jensen	Pederson, D.	Synowiecki
Brashear	Cudaback	Johnson	Preister	Wehrbein
Brown	Cunningham	Kopplin	Price	
Burling	Engel	Kremer	Raikes	
Byars	Flood	Kruse	Schimek	
Combs	Howard	McDonald	Schrock	

Voting in the negative, 14:

Bourne	Fischer	Heidemann	Louden	Smith
Chambers	Foley	Hudkins	Mines	Stuthman
Erdman	Friend	Langemeier	Redfield	

Present and not voting, 1:

Beutler

Excused and not voting, 3:

Landis                      Pedersen, Dw. Thompson

Having failed to receive a constitutional two-thirds majority voting in the affirmative, the bill failed to pass with the emergency clause attached. The question is, "Shall the bill pass with the emergency clause stricken?"

Voting in the affirmative, 30:

Aguilar	Connealy	Howard	Kruse	Raikes
Baker	Cornett	Janssen	McDonald	Schimek
Brashear	Cudaback	Jensen	Pahls	Schrock
Brown	Cunningham	Johnson	Pederson, D.	Stuhr
Burling	Engel	Kopplin	Preister	Synowiecki
Byars	Flood	Kremer	Price	Wehrbein

Voting in the negative, 15:

Bourne	Fischer	Heidemann	Louden	Smith
Chambers	Foley	Hudkins	Mines	Stuthman
Erdman	Friend	Langemeier	Redfield	Thompson

Present and not voting, 2:

Beutler                      Combs

Excused and not voting, 2:

Landis                      Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed with the emergency clause stricken.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 382 with 42 ayes, 2 nays, 3 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 382. With Emergency.**

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-168, 71-1,146.01, 71-1,147.35, 71-374, 71-375, 71-5402, 71-5403, and 71-5404, Reissue Revised Statutes of Nebraska, sections

28-401, 28-405, 28-414, 28-1437, and 71-1,142, Revised Statutes Supplement, 2004, and section 2, Legislative Bill 306, Ninety-ninth Legislature, First Session, 2005; to provide for electronic transmission of prescriptions; to define, redefine, and eliminate terms; to change provisions relating to controlled substances, dispensing, compounding, and destroying certain drugs, and drug product selection; to provide an exception to mandatory reporting requirements for pharmacist interns; to change provisions relating to the Board of Cosmetology; to provide for relabeling and redispensing of certain prescription drugs and devices; to change provisions relating to criminal background checks required of certain professionals; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'" "

Voting in the affirmative, 47:

Aguilar	Connealy	Heidemann	Langemeier	Schrock
Baker	Cornett	Howard	Louden	Smith
Beutler	Cudaback	Hudkins	McDonald	Stuhr
Bourne	Cunningham	Janssen	Mines	Stuthman
Brashear	Engel	Jensen	Pahls	Synowiecki
Brown	Erdman	Johnson	Pederson, D.	Thompson
Burling	Fischer	Kopplin	Preister	Wehrbein
Byars	Flood	Kremer	Price	
Chambers	Foley	Kruse	Redfield	
Combs	Friend	Landis	Schimek	

Voting in the negative, 0.

Excused and not voting, 2:

Pedersen, Dw. Raikes

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

# **LEGISLATIVE BILL 551.** With Emergency.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 71-1,356, 71-1,358, 71-810, 71-813, 71-815 to 71-818, and 71-922, Revised Statutes Supplement, 2004; to change training requirements relating to alcohol and drug counselor training supervisors; to establish a data and information system; to provide duties for the Division of Behavioral Health Services; to change provisions relating to membership on a council, on

advisory committees, and on a commission; to change provisions relating to the Compulsive Gamblers Assistance Fund; to change provisions relating to mental health board proceedings; to provide an operative date; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Aguilar	Connealy	Heidemann	Langemeier	Schrock
Baker	Cornett	Howard	Louden	Smith
Beutler	Cudaback	Hudkins	McDonald	Stuhr
Bourne	Cunningham	Janssen	Mines	Stuthman
Brashear	Engel	Jensen	Pahls	Synowiecki
Brown	Erdman	Johnson	Pederson, D.	Thompson
Burling	Fischer	Kopplin	Preister	Wehrbein
Byars	Flood	Kremer	Price	
Chambers	Foley	Kruse	Redfield	
Combs	Friend	Landis	Schimek	

Voting in the negative, 0.

Excused and not voting, 2:

Pedersen, Dw. Raikes

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **MOTION - Return LB 82 to Select File**

Senator Mines moved to return LB 82 to Select File for the Mines et al. specific pending amendment, AM1246, found on page 1236.

The Mines motion to return prevailed with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

### **SELECT FILE**

**LEGISLATIVE BILL 82.** The Mines et al. specific pending amendment, AM1246, found on page 1236, was adopted with 33 ayes, 1 nay, 13 present and not voting, and 2 excused and not voting.

Advanced to E & R for reengrossment.

**WITHDRAW - Amendment to LB 161**

Senator Foley withdrew his pending amendment, AM1253, found on page 1260, to LB 161.

**MOTION - Return LB 161 to Select File**

Senator Foley moved to return LB 161 to Select File for the following specific amendment:

AM1343

(Amendments to Final Reading copy)

- 1 1. On page 4, line 14, after "calculated" insert "and  
2 the means of notice to the owners of the record title of the  
3 property proposed to be improved, including a written statement of  
4 the proposed benefits and an estimate of the costs to be assessed  
5 according to the method of assessment"; in line 16 after  
6 "benefited" insert "and the method of assessment"; and strike the  
7 matter beginning with "Upon" in line 16 through the period in line  
8 26.
- 9 2. On page 5, strike the matter beginning with  
10 "representing" in line 1 through "thereof" in line 4 and insert "of  
11 property within the proposed district which would be subject to  
12 more than fifty percent of the total of all special assessments to  
13 be levied for the purposes authorized by this subdivision"; strike  
14 the matter beginning with "In" in line 10 through the period in  
15 line 13; and strike the matter beginning with "representing" in  
16 line 15 through "district" in line 18 and insert "of property  
17 within the proposed district which would be subject to more than  
18 fifty percent of the total of all special assessments to be levied  
19 for the purposes authorized by this subdivision".

The Foley motion to return prevailed with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 161.** The Foley specific amendment, AM1343, found in this day's Journal, was adopted with 39 ayes, 0 nays, 8 present and not voting, and 2 excused and not voting.

Advanced to E & R for reengrossment.

**WITHDRAW - Amendment to LB 211**

Senator Landis withdrew his pending amendment, AM1327, found on page 1307, to LB 211.

**MOTION - Return LB 211 to Select File**

Senator Landis moved to return LB 211 to Select File for the following specific amendment:

AM1373

(Amendments to Final Reading copy)

- 1 1. Strike section 2 and insert the following new
- 2 sections:
- 3 "Section 1. Sections 1 to 10 of this act shall be known
- 4 and may be cited as the Nebraska Archaeological Resources
- 5 Preservation Act.
- 6 Sec. 2. The Legislature hereby finds and declares that:
- 7 (1) Archaeological sites represent an important public
- 8 resource embodying the record of our state's cultural heritage;
- 9 (2) The resource base of archaeological sites is being
- 10 threatened at an increasing rate by agricultural, urban,
- 11 commercial, transportation, governmental, and industrial
- 12 development; and
- 13 (3) The rights of private property owners must be
- 14 maintained even when their property contains archaeological sites
- 15 or resources.
- 16 Sec. 3. For purposes of the Nebraska Archaeological
- 17 Resources Preservation Act:
- 18 (1) Archaeological resource means any material object of
- 19 past human life or activities that is of archaeological interest.
- 20 Such objects include, but are not limited to, pottery, basketry,
- 21 bottles, weapons, tools, structures or portions of structures,
- 22 dwellings, rock paintings, rock carvings, intaglios, graves, human
- 23 skeletal materials, or any portion or piece of any of such items.
- 1 Nonfossilized and fossilized paleontological specimens, or any
- 2 portion or piece thereof, shall not be considered archaeological
- 3 resources unless found in an archaeological context. No object
- 4 shall be treated as an archaeological resource under this
- 5 subdivision unless such object is determined to be at least fifty
- 6 years of age;
- 7 (2) Archaeological site means a place or location where
- 8 archaeological resources are found;
- 9 (3) Master archaeological site file means the records
- 10 inventory of all known Nebraska archaeological sites maintained by
- 11 the Nebraska State Historical Society;
- 12 (4) National Register of Historic Places means the
- 13 register of districts, sites, buildings, structures, and objects
- 14 significant in American history, architecture, archaeology,
- 15 engineering, and culture, maintained by the Secretary of the
- 16 Interior under the authority of the federal Historic Sites,
- 17 Buildings, and Antiquities Act, 16 U.S.C. 462(b), and the National
- 18 Historic Preservation Act, 16 U.S.C. 470a(a)(1)(A);
- 19 (5) State agency means any division, department, board,
- 20 bureau, commission, or agency of the State of Nebraska; and

21 (6) Undertaking means a project, activity, or program  
22 funded in whole or in part under the jurisdiction of a state  
23 agency.

24 Sec. 4. (1) There is hereby established the State  
25 Archaeology Office which shall be a division within the Nebraska  
26 State Historical Society. The purpose of the office shall be to  
27 coordinate and encourage appropriate archaeological undertakings  
1 and to preserve archaeological resources. The State Archaeology  
2 Office may adopt and promulgate rules and regulations to carry out  
3 the purposes of the Nebraska Archaeological Resources Preservation  
4 Act.

5 (2) The State Archaeology Office shall be headed by the  
6 State Archaeologist. The State Archaeologist shall be a graduate  
7 of a recognized college or university with a graduate degree in  
8 archaeology or anthropology and shall have sufficient practical  
9 experience and knowledge of archaeology to carry out the purposes  
10 of the act.

11 (3) The State Archaeology Office may:

12 (a) Promote development of archaeological resources for  
13 educational, cultural, tourism, and scientific purposes;

14 (b) Support popular and avocational interest in  
15 archaeological resources through field trips, demonstrations,  
16 seminars, and excavations throughout the state;

17 (c) Conduct a program of locating, identifying,  
18 quantifying, and assessing the significance of the state's  
19 archaeological resources;

20 (d) Maintain the master archaeological site file;

21 (e) Advise state agencies, political subdivisions,  
22 nongovernmental organizations, commercial and business interests,  
23 private property owners, individuals, and others as to the  
24 provisions and requirements of the act;

25 (f) Serve as the liaison office in transactions dealing  
26 with archaeological resources between state agencies and between  
27 the state and the federal government;

1 (g) Cooperate with state agencies and others in  
2 overseeing the execution of undertakings required by the act;

3 (h) Serve as the liaison office between state agencies  
4 and Indian tribes, the Commission on Indian Affairs, or other  
5 constituent groups culturally affiliated with archaeological sites  
6 involved in undertakings;

7 (i) Maintain a list of archaeologists qualified to  
8 conduct research projects required by the act;

9 (j) Maintain a permanent repository and electronic data  
10 base of published and unpublished sources on the archaeological  
11 resources of the state;

12 (k) Prepare, publish, and distribute for professional use  
13 and public education reports, bulletins, pamphlets, maps, and other  
14 products necessary to achieve the purposes of the act;

15 (l) Implement a program of emergency salvage archaeology,

16 which includes surveys and either salvage or preservation of  
17 archaeological resources imperiled by development activities or  
18 natural forces;

19 (m) Administer and manage grants, bequests, devises, tax  
20 incentives, and easements of property to the state for the purposes  
21 of preserving archaeological sites and resources; and

22 (n) Ensure the long-term curation and management of  
23 collections and records resulting from undertakings within the  
24 state;

25 (o) Identify properties included in the National Register  
26 of Historic Places that are endangered, and coordinate or  
27 facilitate the purchase and maintenance of such properties by other  
1 public or private agencies in order to preserve archeological sites  
2 or resources located on the properties; and

3 (p) Conduct all other activities necessary to carry out  
4 the purposes of the act.

5 Sec. 5. (1) Except as provided in subsection (2) of this  
6 section, the head of any state agency having jurisdiction over a  
7 proposed state or state-funded undertaking, which has potential to  
8 affect archaeological resources or sites, shall, prior to the  
9 approval of the expenditure of any state funds on the undertaking,  
10 notify the State Archaeology Office of the undertaking and  
11 cooperate with the office to identify and develop measures to  
12 mitigate the effect of the undertaking on any archaeological site  
13 or resource that is included in or eligible for inclusion in the  
14 National Register of Historic Places.

15 (2) The Department of Roads shall be exempt from the  
16 provisions of the Nebraska Archaeological Resources Preservation  
17 Act as long as a cooperative agreement exists between the  
18 Department of Roads and the Nebraska State Historical Society which  
19 ensures that all highway construction projects meet federal  
20 historic preservation legislation and regulations, and such federal  
21 preservation legislation and regulations fulfill or exceed the  
22 objectives and standards of the act.

23 (3) Nothing in the Nebraska Archaeological Resources  
24 Preservation Act shall be construed to abridge the rights of  
25 private property owners and in no case shall a private property  
26 owner be required to pay for activities undertaken by the State  
27 Archaeology Office.

1 Sec. 6. The State Archaeology Office may accept, use,  
2 disburse, and administer all funds or other property, services, and  
3 money allotted to it for purposes of the Nebraska Archaeological  
4 Resources Preservation Act and may prescribe the conditions under  
5 which such funds, property, services, or money will be accepted and  
6 administered.

7 Sec. 7. (1) Any person who knowingly and willfully  
8 appropriates, excavates, injures, or destroys any archaeological  
9 resource on public land without written permission from the State  
10 Archaeology Office is guilty of a Class III misdemeanor.

11 (2) When the State Archaeology Office has cause to  
12 believe that a person has engaged in or is engaging in any unlawful  
13 conduct prescribed in this section, it may apply for and obtain, in  
14 an action in the appropriate district court of this state, a  
15 temporary restraining order or injunction, or both, pursuant to the  
16 Nebraska rules of civil procedure prohibiting such person from  
17 continuing such practices, or engaging therein, or doing any act in  
18 furtherance thereof.

19 Sec. 8. No person shall enter or attempt to enter upon  
20 the lands of another without permission and intentionally  
21 appropriate, excavate, injure, or destroy any archaeological  
22 resource or any archaeological site. Any person committing such  
23 act is guilty of a Class III misdemeanor.  
24 Sec. 9. The Nebraska State Historical Society may use  
25 General Fund appropriations to match other funds, grants, or money  
26 received to carry out the Nebraska Archaeological Resources  
27 Preservation Act.

1 Sec. 10. The State Archaeology Cash Fund is hereby  
2 created. The fund may be used to carry out the purposes of the  
3 Nebraska Archaeological Resources Preservation Act. Any money in  
4 the fund available for investment shall be invested by the state  
5 investment officer pursuant to the Nebraska Capital Expansion Act  
6 and the Nebraska State Funds Investment Act.

7 Sec. 12. Section 11 of this act becomes operative on  
8 January 1, 2006. The other sections of this act become operative  
9 on their effective date."

10 2. On page 1, line 1, strike "cemeteries" and insert  
11 "the Nebraska State Historical Society" and after the semicolon  
12 insert "to adopt the Nebraska Archaeological Resources Preservation  
13 Act; to provide penalties;"; and in lines 2 and 3 strike "an  
14 operative date" and insert "operative dates".

15 3. Renumber the remaining section accordingly.

The Landis motion to return prevailed with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 211.** The Landis specific amendment, AM1373, found in this day's Journal, was adopted with 40 ayes, 0 nays, 8 present and not voting, and 1 excused and not voting.

Advanced to E & R for reengrossment.

### MOTION - Return LB 401 to Select File

Senator Friend moved to return LB 401 to Select File for his specific pending amendment, AM1314, found on page 1313.

The Friend motion to return prevailed with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 401.** The Friend specific pending amendment, AM1314, found on page 1313, was adopted with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

Advanced to E & R for reengrossment.

### MOTION - Return LB 682 to Select File

Senator Redfield moved to return LB 682 to Select File for her specific pending amendment, AM1325, found on page 1337.

Pending.

### AMENDMENT - Print in Journal

Senator Schrock filed the following amendment to LB 120:  
AM1035

- 1 1. Strike original section 2 and insert the following
- 2 new sections:
- 3 "Sec. 2. Section 37-420, Reissue Revised Statutes of
- 4 Nebraska, as amended by section 6, Legislative Bill 54,
- 5 Ninety-ninth Legislature, First Session, 2005, is amended to read:
- 6 37-420. (1) Any veteran ~~of any war as defined in section~~
- 7 ~~80-401.04~~ who is a legal resident of the State of Nebraska and who
- 8 was discharged or separated with a characterization of honorable or
- 9 general (under honorable conditions) shall be exempt from the
- 10 payment of any fees provided by the laws of the State of Nebraska
- 11 and established by the commission pursuant to section 37-327 for
- 12 the privilege of fishing or hunting in Nebraska if the veteran:
- 13 (a) Is rated by the United States Department of Veterans
- 14 Affairs as fifty percent or more disabled as a result of service in
- 15 the armed forces of the United States;
- 16 (b) Is receiving a pension from the department as a
- 17 result of total and permanent disability, which disability was not
- 18 incurred in the line of duty in the military service; or
- 19 (c) Is sixty-five years of age or older.
- 20 (2) The exemption described in subsection (1) of this
- 21 section shall not extend to the privilege of commercial fishing,
- 22 trapping of fur-bearing animals, or hunting for deer, antelope,
- 23 wild turkey, or any other species of fish and game on which the
- 24 open season is limited to a restricted number of permits or to
- 1 special permits for a restricted area or game management unit.
- 2 (3) If disabled persons are unable by reason of physical
- 3 infirmities to hunt and fish in the normal manner, the commission

4 may issue special permits without cost to those persons to hunt and  
5 fish from a vehicle, but such permits shall not authorize any  
6 person to shoot from any public highway.

7 (4) All permits issued without the payment of any fees  
8 pursuant to this section shall be perpetual and become void only  
9 upon termination of eligibility as provided in this section.

10 (5) The commission may adopt and promulgate rules and  
11 regulations necessary to carry out this section.

12 Sec. 3. Section 37-729, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 37-729. For purposes of sections 37-729 to 37-736:

15 (1) Land includes roads, water, watercourses, private  
16 ways, and buildings, structures, and machinery or equipment thereon  
17 when attached to the realty;

18 (2) Lease means an agreement between an owner of land and  
19 a nonprofit conservation corporation, political subdivision, or  
20 state or federal agency;

21 (3) Owner includes tenant, lessee, occupant, or person in  
22 control of the premises;

23 ~~(3)~~ (4) Recreational purposes includes, but is not  
24 limited to, any one or any combination of the following: Hunting,  
25 fishing, swimming, boating, camping, picnicking, hiking, pleasure  
26 driving, nature study, wildlife viewing including bird viewing,  
27 waterskiing, winter sports, and visiting, viewing, or enjoying

1 historical, archaeological, scenic, or scientific sites, or  
2 otherwise using land for purposes of the user; and

3 ~~(4)~~ (5) Charge means the amount of money asked in return  
4 for an invitation to enter or go upon the land.

5 Sec. 4. Section 37-733, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 37-733. (1) Unless otherwise agreed in writing, an owner  
8 of land ~~(a) leased to the state for recreational purposes for~~  
9 recreational purposes or wildlife benefits by any nonprofit  
10 conservation corporation, political subdivision, or state or  
11 federal agency or (b) receiving wildlife habitat improvement  
12 payments from any nonprofit conservation corporation, political  
13 subdivision, or state or federal agency owes no duty of care to  
14 keep that land safe for entry or use by others or to give warning  
15 to persons entering or going upon such land of any hazardous  
16 conditions, uses, structures, or activities thereon. ~~Am~~

17 (2) ~~Such owner who leases land to the state for~~  
18 ~~recreational purposes~~ shall not by giving such lease or receiving  
19 such wildlife habitat improvement payment (a) ~~(1)~~ extend any  
20 assurance to any person using the land that the premises are safe  
21 for any purpose, ~~(2)~~ (b) confer upon such persons the legal status  
22 of an invitee or licensee to whom a duty of care is owed, or ~~(3)~~  
23 (c) assume responsibility for or incur liability for any injury to  
24 person or property caused by an act or omission of a person who  
25 enters upon the leased land.

26 (3) The provisions of this section shall apply whether  
27 the person entering upon the leased land is an invitee, licensee,  
1 trespasser, or otherwise.  
2 Sec. 5. Section 37-734, Reissue Revised Statutes of  
3 Nebraska, is amended to read:  
4 37-734. Nothing in sections 37-729 to 37-736 limits in  
5 any way any liability which otherwise exists (1) for willful or  
6 malicious failure to guard or warn against a dangerous condition,  
7 use, structure, or activity or (2) for injury suffered in any case  
8 where the owner of land charges the person or persons who enter or  
9 go on the land. ~~Rental paid by a group, organization, corporation,~~  
10 ~~or the state or federal government shall not be deemed a charge~~  
11 ~~made by the owner of the land. Lease payments for recreational~~  
12 ~~purposes or wildlife benefits or wildlife habitat improvement~~  
13 ~~payments made by any nonprofit conservation corporation, political~~  
14 ~~subdivision, or state or federal agency shall not be deemed a~~  
15 ~~charge made by the owner of the land.~~  
16 Sec. 6. Sections 1, 2, and 7 of this act become  
17 operative on January 1, 2006. The other sections of this act  
18 become operative on their effective date.  
19 Sec. 7. Original section 54-2419, Reissue Revised  
20 Statutes of Nebraska, and section 37-420, Reissue Revised Statutes  
21 of Nebraska, as amended by section 6, Legislative Bill 54,  
22 Ninety-ninth Legislature, First Session, 2005, are repealed.  
23 Sec. 8. Original sections 37-729, 37-733, and 37-734,  
24 Reissue Revised Statutes of Nebraska, are repealed.  
25 Sec. 9. Since an emergency exists, this act takes effect  
26 when passed and approved according to law."

## RESOLUTION

### LEGISLATIVE RESOLUTION 97. Introduced by Fischer, 43.

WHEREAS, the Stuart High School Mock Trial Team placed first in the Nebraska State Championship; and

WHEREAS, the team will represent their school, Legislative District 43, and the State of Nebraska at the National High School Mock Trial Championship in Charlotte, North Carolina, May 5-8, 2005; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the members of the Stuart High School Mock Trial Team be congratulated for its success.

2. That a copy of this resolution be sent to the Stuart High School Mock Trial Team and their Coach, Attorney Janet Krotter Chvala.

Laid over.

**REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board referred the University of Nebraska's and Wayne State College's requests to issue revenue bonds to the Appropriations Committee for further consideration.

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 454A.** Introduced by Combs, 32.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 454, Ninety-ninth Legislature, First Session, 2005.

**VISITORS**

Visitors to the Chamber were 11 seventh- through ninth-grade students and teacher from Christ Is King School, Norfolk; 45 fourth-grade students and teachers from Arbor Park Middle School, Blair; Kathy and Lucas Christensen from Sindal, North Jutland, Denmark; 25 fourth-grade students and teacher from Karen Western Elementary School, Omaha; Senator Connealy's cousins, Pastor Michael Sears and Tony Sears from California and John Sears from Minnesota; and Dianne Swanson and Stephanie Wallman from Beatrice.

**RECESS**

At 11:59 a.m., on a motion by Senator Kremer, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senator Dw. Pedersen who was excused; and Senators Aguilar, Cornett, Loudon, Price, and Thompson who were excused until they arrive.

**MOTION - Return LB 682 to Select File**

Senator Redfield renewed her pending motion, found in this day's Journal, to return LB 682 to Select File for her specific pending amendment,

AM1325, found on page 1337.

The Redfield motion to return prevailed with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 682.** The Redfield specific pending amendment, AM1325, found on page 1337, was adopted with 31 ayes, 1 nay, 13 present and not voting, and 4 excused and not voting.

Advanced to E & R for reengrossment.

### MOTION - Reconsider Action on LB 38

Senator Landis offered the following motion:

Reconsider the vote taken on the final passage of LB 38 with the emergency clause attached.

Senator Landis requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 34:

Aguilar	Combs	Foley	Kruse	Raikes
Baker	Connealy	Howard	Landis	Schimek
Beutler	Cornett	Janssen	McDonald	Schrock
Brashear	Cudaback	Jensen	Mines	Stuhr
Brown	Cunningham	Johnson	Pahls	Synowiecki
Burling	Engel	Kopplin	Pederson, D.	Wehrbein
Byars	Flood	Kremer	Preister	

Voting in the negative, 12:

Bourne	Fischer	Hudkins	Redfield
Chambers	Friend	Langemeier	Smith
Erdman	Heidemann	Louden	Stuthman

Excused and not voting, 3:

Pedersen, Dw. Price	Thompson
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The Landis motion to reconsider prevailed with 34 ayes, 12 nays, and 3 excused and not voting.

### BILL ON FINAL READING

The following bill was put upon final passage:

**LEGISLATIVE BILL 38.** With Emergency.

Senator Flood requested a roll call vote.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 33:

Aguilar	Combs	Howard	Landis	Schimek
Baker	Connealy	Janssen	McDonald	Schrock
Beutler	Cornett	Jensen	Mines	Stuhr
Brashear	Cudaback	Johnson	Pahls	Synowiecki
Brown	Cunningham	Kopplin	Pederson, D.	Wehrbein
Burling	Engel	Kremer	Preister	
Byars	Flood	Kruse	Raikes	

Voting in the negative, 12:

Bourne	Fischer	Hudkins	Redfield
Chambers	Friend	Langemeier	Smith
Erdman	Heidemann	Louden	Stuthman

Present and not voting, 1:

Foley

Excused and not voting, 3:

Pedersen, Dw. Price                      Thompson

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

## **SPEAKER BRASHEAR PRESIDING**

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 382, 551, and 38.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 78, 80, 81, 82, 83, 84, and 85 were adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 78, 80, 81, 82, 83, 84, and 85.

**SENATOR CUDABACK PRESIDING****SELECT FILE**

**LEGISLATIVE BILL 753.** E & R amendment, AM7074, found on page 1077, was adopted.

Senator Bourne renewed the Bourne-Landis pending amendment, AM1136, found on page 1159.

The Bourne-Landis amendment was adopted with 32 ayes, 1 nay, 10 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

**GENERAL FILE**

**LEGISLATIVE BILL 117.** The fifth Standing Committee amendment, FA192, found on page 1326, was renewed.

Senator Beutler renewed his pending amendment, AM1181, found on page 1189 and considered on pages 1301 and 1326, to the fifth Standing Committee amendment.

Senator Beutler withdrew his amendment.

Senator Bourne moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

The fifth Standing Committee amendment was adopted with 39 ayes, 1 nay, 3 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

The sixth Standing Committee amendment is as follows:  
FA193

21 (e) Stored behind a counter, in an area not accessible to  
22 customers, or in a locked case so that a customer needs assistance  
23 from an employee to access the drug product.

Senator Bourne moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

The sixth Standing Committee amendment was adopted with 39 ayes, 0

nays, 5 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

The seventh Standing Committee amendment is as follows:

FA194

7 Sec. 6. No person shall, by retail, purchase, receive,  
 8 or otherwise acquire any drug product containing more than one  
 9 thousand four hundred forty milligrams of pseudoephedrine base or  
 10 one thousand four hundred forty milligrams of phenylpropanolamine  
 11 base during a twenty-four-hour period unless purchased pursuant to  
 12 a medical order. Any person who violates this section shall be  
 13 guilty of an infraction as defined in section 29-431.

### SENATOR SCHIMEK PRESIDING

Senator Bourne moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The seventh Standing Committee amendment was adopted with 39 ayes, 1 nay, 4 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Bourne moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Senator Chambers requested a record vote on the advancement of the bill.

Voting in the affirmative, 43:

Aguilar	Connealy	Heidemann	Landis	Schrock
Baker	Cornett	Howard	Langemeier	Smith
Beutler	Cunningham	Hudkins	McDonald	Stuhr
Bourne	Engel	Janssen	Mines	Stuthman
Brashear	Erdman	Jensen	Pahls	Synowiecki
Brown	Fischer	Johnson	Preister	Thompson
Burling	Flood	Kopplin	Raikes	Wehrbein
Byars	Foley	Kremer	Redfield	
Combs	Friend	Kruse	Schimek	

Voting in the negative, 1:

Chambers

Present and not voting, 1:

Louden

Excused and not voting, 4:

Cudaback      Pedersen, Dw. Pederson, D.    Price

Advanced to E & R for review with 43 ayes, 1 nay, 1 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

### **AMENDMENTS - Print in Journal**

Senator Schimek filed the following amendment to LB 424:

AM1372

(Amendments to Standing Committee amendments, AM1284)

- 1 1. On page 26, line 19, after the period insert "Such
- 2 projects to be undertaken in FY2005-06 shall include a Capitol
- 3 heating, ventilating, and air conditioning study as identified in
- 4 the Master Plan."

Senator McDonald filed the following amendment to LB 332:

AM1338

(Amendments to Standing Committee amendments, AM0795)

- 1 1. On page 1, line 14, after the period insert
- 2 "Beginning July 1, 2005, the State Treasurer shall transfer five
- 3 hundred thousand dollars each fiscal year from the State Lottery
- 4 Operation Cash Fund to the Compulsive Gamblers Assistance Fund.
- 5 This transfer shall take place before any other expenditures are
- 6 made from the fund in any fiscal year, shall be taken from the
- 7 advertising, promotion, and marketing budget of the state lottery.
- 8 and shall be absorbed within the operating budget of the state
- 9 lottery without increased appropriations to such fund by the
- 10 Legislature.".
- 11 2. On page 9, strike the new matter in lines 25 through
- 12 27.
- 13 3. On page 10, line 1, strike the new matter.

Senators Wehrbein, Cunningham, Kremer, Schrock, and Stuhr filed the following amendment to LB 90:

(Amendment, AM1346, is printed separately and available in the Bill Room, Room 1104.)

Senator Chambers filed the following amendment to LB 425:

AM1429

(Amendments to Standing Committee amendments, AM0521)

- 1 1. On page 10, strike lines 3 through 5 and insert:
- 2 "GENERAL FUND    -0-                    100,000
- 3 PROGRAM TOTAL   -0-                    100,000
- 4 SALARY LIMIT      -0-                    100,000".

**STANDING COMMITTEE REPORT**  
**Revenue**

**LEGISLATIVE BILL 312.** Placed on General File as amended.  
(Standing Committee amendment, AM1350, is printed separately and available in the Bill Room, Room 1104.)

(Signed) David Landis, Chairperson

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 3, 2005, at 2:43 p.m. were the following:  
LBs 382e, 551e, and 38e.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**RESOLUTION**

**LEGISLATIVE RESOLUTION 98.** Introduced by Schrock, 38; Aguilar, 35; Baker, 44; Beutler, 28; Bourne, 8; Burling, 33; Byars, 30; Chambers, 11; Combs, 32; Connealy, 16; Cornett, 45; Cudaback, 36; Flood, 19; Howard, 9; Janssen, 15; Johnson, 37; Kopplin, 3; Kruse, 13; Landis, 46; McDonald, 41; Mines, 18; Pahls, 31; Preister, 5; Raikes, 25; Schimek, 27; Stuhr, 24; Stuthman, 22; Thompson, 14; Wehrbein, 2.

The Nebraska Accountability and Disclosure Commission (Commission) recently entered into three separate settlement agreements with David Hergert, a member of the University of Nebraska Board of Regents who was elected in November 2004. In these agreements, the Commission determined that Hergert had committed four separate violations of the state's campaign finance laws during the 2004 primary and general election periods. As a part of the settlement, Hergert has agreed to pay \$33,512.10 in civil penalties and late filing fees.

In case number 04-35 (John Gould v. David Hergert), the Commission found that Hergert violated section 49-1458, which requires a candidate committee to report late contributions within two days after receiving such contributions. Hergert acknowledged that his committee received a \$44,000 late contribution (in the form of a loan from Hergert) on October 22, 2004, and that this contribution was not reported until November 3, 2004, well after the statutory two-day deadline. As a result of this violation, the settlement agreement requires Hergert to pay a civil penalty in the amount of \$2,000 and a late filing fee in the amount of \$4,400.

In case number 04-36 (Executive Director v. David Hergert), the Commission concluded that Hergert violated subdivision (5)(b) of section 32-1604, which requires a candidate who chooses not to abide by statutory spending limitations to file an affidavit with the Commission within five days after exceeding forty percent of his or her estimated maximum expenditure. In both the primary and general election period, Hergert elected

not to abide by the applicable spending limitation. As a part of the settlement agreement, Hergert acknowledged that he exceeded forty percent of his estimate for the primary election on April 22, 2004, but failed to mail his notice to the Commission until more than two weeks later, on May 10, 2004. He also acknowledged that although he exceeded forty percent of his estimate for the general election on October 19, 2004, the Commission did not receive his notice until November 12, 2004, well after the five-day deadline had passed. As a result of these violations, Hergert agreed to pay civil penalties in the amount of \$2,000 (\$1,000 per violation).

In case number 04-43 (Chris Beutler v. David Hergert), the Commission determined that Hergert violated section 49-1446.04. This provision prohibits a candidate committee from accepting loans in an aggregate amount representing more than fifty percent of nonloan contributions that the committee received during a specified time period. In the settlement agreement, Hergert acknowledged that his candidate committee accepted more than \$25,000 in loans that violated this restriction. As a result of the violation, Hergert agreed to pay a civil penalty in the amount of \$25,112.10. This is the largest civil penalty for a single violation assessed by the Commission since its inception.

The recitations above, as well as other potential violations, demonstrate that by delaying the disclosure of statutorily required information, Hergert and his candidate committee succeeded in undermining the purposes of Nebraska's campaign finance laws by preventing Hergert's opponents from obtaining current information and from accessing public funds to engage in a "fair fight" for the District 7 Board of Regents seat. Regardless of whether Hergert's misconduct was intentional or unintentional, the result was the same--the violations, viewed as a whole, have tainted the 2004 elections and may very well have changed the result of the elections.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature hereby calls for David Hergert to resign his seat on the Nebraska Board of Regents immediately.

2. That the Legislature hereby calls upon the Governor to fill Mr. Hergert's vacated seat pursuant to section 32-573, pending a special election.

3. That the Legislature hereby calls for a special election, to be held in conjunction with the general election in November 2006, to fill Mr. Hergert's vacated seat.

4. That if Mr. Hergert fails to resign within sixty days of receiving notice of this resolution, the Executive Board of the Legislative Council shall meet forthwith and appoint a special committee of the Legislature to consider whether impeachment proceedings against Mr. Hergert are appropriate. The Executive Board is hereby authorized to hire special counsel and to finance whatever investigation is necessary to aid the special committee in reaching a proper determination on the issue of impeachment. The special committee shall render its recommendations to the Executive Board by January of 2006.

5. That the Clerk of the Legislature is hereby directed to send, upon passage, a copy of this resolution, by certified mail with return receipt requested, to Mr. Hergert at his last-known address.

**SPEAKER'S ANNOUNCEMENT**

Pursuant to Rule 4, Section 8, LR 98 was referred to the Reference Committee.

**GENERAL FILE**

**LEGISLATIVE BILL 542.** Title read. Considered.

The Standing Committee amendment, AM0932, found on page 1003, was considered.

Senator Burling renewed his pending amendment, AM1099, found on page 1126, to the Standing Committee amendment.

**SENATOR CUDABACK PRESIDING**

Senator Burling moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

The Burling amendment was adopted with 28 ayes, 2 nays, 13 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Pending.

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Price asked unanimous consent to have her name added as cointroducer to LBs 161, 401, 551, and 682. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 8 Youth Council members and sponsors from Butler County; Senator Langemeier's sister, Diane Page, from Phoenix, AZ; and retired Judge John Finney from District 21.

The Doctor of the Day was Dr. Harold Pumphrey from Lincoln.

**ADJOURNMENT**

At 5:09 p.m., on a motion by Senator Janssen, the Legislature adjourned until 9:00 a.m., Wednesday, May 4, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**SEVENTY-SECOND DAY - MAY 4, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SEVENTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, May 4, 2005

**PRAYER**

The prayer was offered by Pastor Brian Friedrich, President, Concordia University, Seward.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Dw. Pedersen who was excused; and Senators Brown, Combs, and Landis who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-first day was approved.

**NOTICE OF COMMITTEE HEARING**  
**Health and Human Services**  
Room 1510

LR 65            Tuesday, May 17, 2005            1:00 p.m.

Tuesday, May 17, 2005            1:00 p.m.

Mary Ann Burke - Commission for the Deaf and Hard of Hearing  
Michael J. Carruthers - Commission for the Deaf and Hard of Hearing  
Daniel R. Darnall - Commission for the Deaf and Hard of Hearing  
Steven Dokken - Rural Health Advisory Commission  
Joellen McGinn - Foster Care Review Board  
James C. Schiefen - State Board of Health

(Signed) Jim Jensen, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 421.** Title read. Considered.

The Standing Committee amendment, AM1240, printed separately and referred to on page 1330, was adopted with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 422.** Title read. Considered.

The Standing Committee amendment, AM1295, found on page 1330, was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 423.** Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 424.** Title read. Considered.

The Standing Committee amendment, AM1284, printed separately and referred to on page 1334, was considered.

Senator Schimek renewed her pending amendment, AM1372, found on page 1360, to the Standing Committee amendment.

The Schimek amendment was adopted with 28 ayes, 0 nays, 19 present and not voting, and 2 excused and not voting.

Senator Chambers offered the following amendment to the Standing Committee amendment:

AM1447

(Amendments to Standing Committee amendments, AM1284)

1 PURPOSE: The Game and Parks Commission was awarded \$2,047,730 in  
2 grants from the Nebraska Environmental Trust Fund in 2005 for  
3 wildlife habitat and other environmental improvement purposes.  
4 Several of these grants were for multi-year projects and the intent  
5 was expressed to provide additional funding in the subsequent two  
6 years. Specifically, intent was expressed to provide additional  
7 funding of \$597,699 in 2006 and \$75,000 in 2007. This amendment  
8 would reduce the Cash Fund appropriation used by the Game and Parks  
9 Commission for similar habitat and environmental purposes by  
10 \$350,000 in FY2005-06.

11 AMENDMENT:

12 1. On page 33, line 4, after "authority" insert "and

13 less \$350,000 of Cash Fund appropriation authority".

## **SENATOR JANSSEN PRESIDING**

## **SENATOR CUDABACK PRESIDING**

Senator Chambers moved for a call of the house. The motion prevailed with 18 ayes, 2 nays, and 29 not voting.

Senator Chambers requested a record vote on his amendment.

Voting in the affirmative, 1:

Flood

Voting in the negative, 19:

Beutler	Engel	Jensen	Price	Synowiecki
Brashear	Erdman	Kopplin	Schrock	Thompson
Connealy	Heidemann	Kruse	Smith	Wehrbein
Cornett	Howard	Landis	Stuhr	

Present and not voting, 27:

Aguilar	Chambers	Hudkins	McDonald	Redfield
Baker	Cudaback	Janssen	Mines	Schimek
Bourne	Cunningham	Johnson	Pahls	Stuthman
Brown	Fischer	Kremer	Pederson, D.	
Burling	Foley	Langemeier	Preister	
Byars	Friend	Louden	Raikes	

Excused and not voting, 2:

Combs                      Pedersen, Dw.

The Chambers amendment lost with 1 aye, 19 nays, 27 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:  
Reconsider the vote taken on AM1447.

The Chambers motion to reconsider failed with 3 ayes, 18 nays, 26 present and not voting, and 2 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

Senator Chambers offered the following motion:  
Indefinitely postpone.

Senator Chambers withdrew his motion to indefinitely postpone.

Advanced to E & R for review with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

### **SELECT COMMITTEE REPORTS** **Enrollment and Review**

#### **Correctly Reengrossed**

The following bills were correctly reengrossed: LBs 82, 161, 211, 401, and 682.

#### **Correctly Engrossed**

The following bill was correctly engrossed: LB 753.

(Signed) Michael Flood, Chairperson

### **AMENDMENT - Print in Journal**

Senator Beutler filed the following amendment to LB 70:  
AM1435

(Amendments to Standing Committee amendments, AM7088)

- 1 1. On page 17, line 2, strike "A", show as stricken, and
- 2 insert "(a) Until January 1, 2008, a person shall not operate or be
- 3 a passenger on a motorcycle or moped on any highway in this state
- 4 unless such person is wearing eye protection.
- 5 (b) On and after January 1, 2008, a"; and strike
- 6 beginning with "Except" in line 16 through "(3)" in line 21.

### **VISITORS**

Visitors to the Chamber were Rebecca Miller from Weeping Water; 33 fourth-grade students and teacher from St. Mary's School, Bellevue; 90 twelfth-grade students and teacher from Millard West High School, Omaha; 46 fourth-grade students and teachers from Alcott Elementary School, Hastings; 6 fourth-grade students and teacher from Southeast Consolidated School, Stella; and 24 members of the Nebraska Federation of Women's Club from across the state.

### **RECESS**

At 11:56 a.m., on a motion by Senator Langemeier, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senator Dw. Pedersen who was excused; and Senator Hudkins who was excused until she arrives.

**GENERAL FILE**

**LEGISLATIVE BILL 425.** Title read. Considered.

The Standing Committee amendment, AM0521, printed separately and referred to on page 1334, was considered.

Senator Foley asked unanimous consent to withdraw his pending amendment, AM1330, found on page 1338, and replace it with his substitute amendment, AM1374, to the Standing Committee amendment. No objections. So ordered.

AM1374

(Amendments to Standing Committee amendments, AM0521)

1 1. On page 36, strike line 5 and insert "FEDERAL FUND  
2 est. 13,486,723 13,831,310"; strike line 6 and insert "PROGRAM  
3 TOTAL 29,775,289 30,540,339"; and after line 16 insert:  
4 "There is included in the appropriation to this program  
5 for FY2005-06 \$250,000 Federal Temporary Assistance For Needy  
6 Families (TANF) Funds to be used for a grant from Program 177 for  
7 the purposes described in this section. There is included in the  
8 appropriation to this program for FY2006-07 \$250,000 Federal  
9 Temporary Assistance For Needy Families (TANF) Funds to be used for  
10 a grant from Program 177 for the purposes described in this  
11 section. Funds shall be used for a pilot program to provide  
12 assistance to women who are pregnant or who believe they may be  
13 pregnant.  
14 It is the intent of the Legislature that the department  
15 shall conduct a competitive solicitation for a grant award to a  
16 nonprofit entity to act as a service provider to conduct the pilot  
17 program. In order to qualify for a grant from this appropriation,  
18 the applicant selected shall have demonstrated experience operating  
19 a program that has a stated purpose of assisting pregnant women  
20 with services that include, but are not limited to, the provision  
21 of maternity and infant clothing, food, and supplies, information  
22 about pregnancy and medical services, information about adoption,  
23 nutrition, parenting, and the availability of additional public and  
1 private assistance to pregnant women and mothers of newborn  
2 children. The pilot program shall not refer for, perform, or  
3 counsel for abortions and shall be physically and financially

4 separate from any program that refers for, performs, or counsels  
5 for abortions."

Senator Jensen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 3 nays, and 19 not voting.

Senator Foley moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator Foley requested a roll call vote on his amendment.

Voting in the affirmative, 25:

Baker	Cunningham	Foley	Kremer	Schrock
Brashear	Engel	Friend	Langemeier	Smith
Combs	Erdman	Heidemann	Louden	Stuhr
Cornett	Fischer	Jensen	Mines	Stuthman
Cudaback	Flood	Kopplin	Pahls	Wehrbein

Voting in the negative, 10:

Chambers	Janssen	Kruse	Pederson, D.	Raikes
Howard	Johnson	Landis	Price	Thompson

Present and not voting, 11:

Aguilar	Brown	McDonald	Schimek
Beutler	Byars	Preister	Synowiecki
Bourne	Connealy	Redfield	

Excused and not voting, 3:

Burling	Hudkins	Pedersen, Dw.
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The Foley amendment was adopted with 25 ayes, 10 nays, 11 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

**LEGISLATIVE BILL 737.** Title read. Considered.

The Standing Committee amendment, AM1294, found on page 1311, was considered.

**SENATOR SCHIMEK PRESIDING**

The Standing Committee amendment was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Senator Wehrbein offered the following amendment:

FA222

On page 2 strike lines 24 through 27 and line 28 on page 2 and lines 1-3 on page 3.

Pending.

### **SELECT COMMITTEE REPORT** **Enrollment and Review**

**LEGISLATIVE BILL 117.** Placed on Select File as amended.

(E & R amendment, AM7091, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Michael Flood, Chairperson

### **AMENDMENTS - Print in Journal**

Senators Raikes, Flood, and Kopplin filed the following amendment to LB 425:

AM1432

(Amendments to Standing Committee amendments, AM0521)

- 1 PURPOSE: Provide a five percent rather than a three percent
- 2 increase in special education aid.
- 3 AMENDMENT:
- 4 1. On page 19, strike line 25 and insert "GENERAL FUND
- 5 869,747,595 928,224,142".
- 6 2. On page 20, strike line 1 and insert "PROGRAM TOTAL
- 7 1,117,453,105 1,183,800,911"; in line 3 strike "\$866,524,661" and
- 8 insert "\$869,747,595"; in line 6 strike "\$921,520,438" and insert
- 9 "\$928,224,142"; in line 21 strike "\$165,981,123" and insert
- 10 "\$169,204,057"; and in line 23 strike "\$170,960,556" and insert
- 11 "\$177,664,260".

Senator D. Pederson filed the following amendment to LB 425:

AM1364

(Amendments to Standing Committee amendments, AM0521)

- 1 1. On page 62, after line 24 insert the following new
- 2 paragraph:
- 3 "There is included in the appropriation to this program
- 4 \$504,700 General Funds for FY2005-06 and \$519,841 General Funds for
- 5 FY2006-07, which shall only be used for the following purposes:
- 6 Reimbursement for the provision of pap smears, colposcopy, cervical
- 7 biopsy, cryotherapy, loop electrosurgical excision procedure
- 8 (LEEP), and such other treatments and procedures as may be

9 developed for the followup of abnormal pap smears; the diagnosis  
 10 and treatment of sexually transmitted diseases, including, but not  
 11 limited to, chlamydia, gonorrhea, HPV (genital warts), and herpes;  
 12 and associated laboratory and equipment costs and staff training  
 13 costs relating to the use of colposcopy equipment. None of the  
 14 General Funds provided under this program shall be used to perform  
 15 or facilitate the performance of abortion or to counsel or refer  
 16 for abortion."

Senator Byars filed the following amendment to LB 425:  
 AM1440

(Amendments to Standing Committee amendments, AM0521)

1 PURPOSE: Increase funding by \$643,436 General Funds and \$951,406  
 2 Federal Funds in FY2005-06 and \$1,675,145 General Funds and  
 3 \$2,678,527 Federal Funds in FY2006-07 to fund rate equity for  
 4 developmental disability providers.

5 AMENDMENT:

6 1. On page 58, strike line 21 and insert "GENERAL FUND  
 7 59,101,681 62,150,729"; strike line 23 and insert "FEDERAL FUND  
 8 est. 98,752,332 111,665,410"; strike line 24 and insert "PROGRAM  
 9 TOTAL 163,966,013 179,928,139"; in line 26 strike "\$58,458,245"  
 10 and insert "\$59,101,681"; and in line 27 strike "\$97,800,926" and  
 11 insert "\$98,752,332".

12 2. On page 59, line 2, strike "\$60,475,584" and insert  
 13 "\$62,150,729"; in line 3 strike "\$108,986,883" and insert  
 14 "\$111,665,410"; in line 6 strike "\$1,282,906" and insert  
 15 "\$1,926,342" and strike "\$1,924,359" and insert "\$2,875,765"; and  
 16 in line 9 strike "\$2,591,470" and insert "\$4,266,615" and strike  
 17 "\$3,887,205" and insert "\$6,565,732".

Senator Mines filed the following amendment to LB 425:  
 AM1438

(Amendments to Standing Committee amendments, AM0521)

1 1. On page 17, lines 14 and 15 strike each occurrence of  
 2 "8,777,193" and insert "11,777,193"; and in lines 17 and 19 strike  
 3 "8,777,193" and insert "11,777,193".

Senator Bourne filed the following amendment to LB 425:  
 FA216

Amend AM0521

On page 141, strike lines 8-10 and insert:

Cash Fund	1,000,000	1,000,000
Program Total	1,000,000	1,000,000
Salary Limit	600,000	600,000

Senator Baker filed the following amendment to LB 343:  
 (Amendment, AM1326, is printed separately and available in the Bill Room,  
 Room 1104.)

Senator Chambers filed the following amendment to LB 425:  
AM1441

(Amendments to Standing Committee amendments, AM0521)

- 1 1. On page 2, strike line 25 and insert "GENERAL FUND  
2 7,168,783 7,546,141".
- 3 2. On page 3, strike line 1 and insert "PROGRAM TOTAL  
4 7,378,053 7,755,411".
- 5 3. On page 5, strike line 15 and insert "GENERAL FUND  
6 23,567,316 24,270,460"; and strike line 18 and insert "PROGRAM  
7 TOTAL 25,201,821 25,910,465".
- 8 4. On page 12, strike line 18 and insert "GENERAL FUND  
9 5,543,764 5,904,104"; and strike line 22 and insert "PROGRAM  
10 TOTAL 7,428,660 7,698,012".
- 11 5. On page 19, strike line 13 and insert "GENERAL FUND  
12 9,300,510 9,586,495"; and strike line 17 and insert "PROGRAM  
13 TOTAL 22,519,419 23,011,486".
- 14 6. On page 29, strike line 6 and insert "GENERAL FUND  
15 21,063,484 21,618,682"; and strike line 9 and insert "PROGRAM  
16 TOTAL 22,318,596 22,656,629".
- 17 7. On page 32, strike line 10 and insert "GENERAL FUND  
18 1,545,718 1,587,807"; and strike line 14 and insert "PROGRAM  
19 TOTAL 2,602,746 2,666,167".
- 20 8. On page 36, strike line 3 and insert "GENERAL FUND  
21 5,466,555 5,611,914"; and strike line 6 and insert "PROGRAM TOTAL  
22 29,515,289 30,280,339".
- 23 9. On page 42, strike line 3 and insert "GENERAL FUND  
1 52,919,882 56,270,438"; and strike line 6 and insert "PROGRAM  
2 TOTAL 124,320,488 128,688,364".
- 3 10. On page 49, strike line 20 and insert "GENERAL FUND  
4 33,784,634 34,002,390"; and strike line 23 and insert "PROGRAM  
5 TOTAL 113,789,918 129,738,585".
- 6 11. On page 73, strike line 13 and insert "GENERAL FUND  
7 6,300,556 6,119,122"; and strike line 16 and insert "PROGRAM  
8 TOTAL 7,485,591 7,304,157".
- 9 12. On page 79, strike line 25 and insert "GENERAL FUND  
10 4,683,049 4,809,255"; and strike line 27 and insert "PROGRAM  
11 TOTAL 17,659,123 18,133,686".
- 12 13. On page 82, after line 24 insert:  
13 "FY2005-06 FY2006-07  
14 GENERAL FUND 200,000 200,000  
15 PROGRAM TOTAL 200,000 200,000  
16 SALARY LIMIT 200,000 200,000"  
17 and strike line 27.
- 18 14. On page 83, strike lines 1 through 6.
- 19 15. On page 84, strike line 10 and insert "GENERAL FUND  
20 135,037,972 139,259,387"; and strike line 14 and insert "PROGRAM  
21 TOTAL 157,704,890 162,661,370".
- 22 16. On page 87, strike line 5 and insert "GENERAL FUND  
23 8,722,618 8,999,127"; and strike line 7 and insert "PROGRAM TOTAL

24 8,912,440 9,191,886".

25 17. On page 90, strike line 11 and insert "GENERAL FUND  
26 38,294,336 40,857,931"; and strike line 15 and insert "PROGRAM  
27 TOTAL 80,415,693 82,979,288".

1 18. On page 92, strike lines 12 and 13 and insert  
2 "GENERAL FUND 428,149,202 454,176,041  
3 PROGRAM TOTAL 428,149,202 454,176,041".

4 19. On page 99, strike line 13 and insert "GENERAL FUND  
5 4,030,106 4,152,714"; and strike line 16 and insert "PROGRAM  
6 TOTAL 6,054,115 6,234,873".

7 20. On page 103, strike line 1 and insert "GENERAL FUND  
8 43,216,623 45,684,834"; and strike line 4 and insert "PROGRAM  
9 TOTAL 45,484,147 47,952,358".

10 21. On page 117, strike line 23 and insert "GENERAL FUND  
11 3,593,685 3,651,784"; and strike line 25 and insert "PROGRAM  
12 TOTAL 3,610,935 3,669,034".

13 22. On page 122, strike line 17 and insert "GENERAL FUND  
14 2,405,684 2,481,239"; and strike line 20 and insert "PROGRAM  
15 TOTAL 3,688,166 3,763,721".

16 23. On page 142, strike line 5 and insert "GENERAL FUND  
17 4,513,306 4,664,873"; and strike line 7 and insert "PROGRAM TOTAL  
18 5,113,306 5,264,873".

Senator Chambers filed the following amendment to LB 425:  
AM1379

(Amendments to Standing Committee amendments, AM0521)

- 1 1. Insert the following new section:
- 2 "Sec. 7. LEGISLATIVE INTENT.
- 3 It is the intent of the Legislature that there shall be
- 4 no discrimination by any agency receiving funds under this act
- 5 against any person based on sexual orientation."
- 6 2. Renumber the remaining sections and correct internal
- 7 references accordingly.

Senator Chambers filed the following amendments to LB 425:  
(The following amendments are similar to the above amendment but amend different sections relating to specific agencies within the Standing Committee amendment. These amendments are on file and available in the Clerk's Office, Room 2014: AM1380 through AM1428 and AM1436.)

Senator Chambers filed the following amendment to LB 425:  
AM1442

(Amendments to Standing Committee amendments, AM0521)

- 1 PURPOSE: To make low-level settlement payment over two years.
- 2 AMENDMENT:
- 3 1. On page 18, strike lines 25 and 26 and insert:
- 4 "CASH FUND 74,247,506 74,247,506
- 5 PROGRAM TOTAL 74,247,506 74,247,506".

Senator Chambers filed the following amendment to LB 425:  
AM1444

(Amendments to Standing Committee amendments, AM0521)

1 PURPOSE: To make low-level settlement payment over three years.

2 AMENDMENT:

3 1. On page 18, strike lines 25 and 26 and insert:

4 "CASH FUND 50,403,658 50,403,658

5 PROGRAM TOTAL 50,403,658 50,403,658".

Senator Chambers filed the following amendment to LB 425:  
AM1431

(Amendments to Standing Committee amendments, AM0521)

1 PURPOSE: Eliminate funding for the textbook loan program.

2 AMENDMENT:

3 1. On page 19, strike line 25 and insert "GENERAL FUND

4 866,104,661 921,100,438".

5 2. On page 20, strike line 1 and insert "PROGRAM TOTAL

6 1,113,810,171 1,176,677,207"; in line 3 strike "\$866,524,661" and

7 insert "\$866,104,661"; in line 6 strike "\$921,520,438" and insert

8 "\$921,100,438"; and strike lines 25 through 27.

9 3. On page 21, strike line 1.

Senator Chambers filed the following amendment to LB 425:  
AM1439

(Amendments to Standing Committee amendments, AM0521)

1 PURPOSE: The Game and Parks Commission was awarded \$2,047,730 in

2 grants from the Nebraska Environmental Trust Fund in 2005 for

3 wildlife habitat and other environmental improvement purposes.

4 Several of these grants were for multi-year projects and the intent

5 was expressed to provide additional funding in the subsequent two

6 years. Specifically, intent was expressed to provide additional

7 funding of \$597,699 in 2006 and \$75,000 in 2007. This amendment

8 would reduce the Cash Fund appropriation used by the Game and Parks

9 Commission for similar habitat and environmental purposes by

10 \$247,699 in FY2005-06 and by \$75,000 in FY2006-07.

11 AMENDMENT:

12 1. On page 78, strike line 13 and insert "CASH FUND

13 18,163,229 18,975,086"; and strike line 15 and insert "PROGRAM

14 TOTAL 19,370,037 20,235,043".

Senator Chambers filed the following amendment to LB 425:  
AM1437

(Amendments to Standing Committee amendments, AM0521)

1 PURPOSE: To reduce the General Fund appropriation for Peru State

2 College by \$250,000 for FY2005-06 and \$250,000 for FY2006-07.

3 AMENDMENT:

4 1. On page 90, strike line 11 and insert "GENERAL FUND

5 38,054,336 40,617,931"; and strike line 15 and insert "PROGRAM

6 TOTAL 80,175,693 82,739,288".

Senator Chambers filed the following amendment to LB 427:  
AM1443

(Amendments to Standing Committee amendments, AM1288)

- 1 PURPOSE: To transfer money for payment of the low-level settlement
- 2 over two years from the Cash Reserve Fund to the Low-Level
- 3 Radioactive Waste Settlement Fund.
- 4 AMENDMENT:
- 5 1. On page 3, strike lines 12 through 15 and insert:
- 6 "(7) On July 29, 2005, and July 29, 2006, the State
- 7 Treasurer shall transfer seventy-four million two hundred
- 8 forty-seven thousand five hundred six dollars from the Cash Reserve
- 9 Fund to the Low-Level Radioactive Waste Settlement Fund.".

Senator Chambers filed the following amendment to LB 427:  
AM1445

(Amendments to Standing Committee amendments, AM1288)

- 1 PURPOSE: To transfer money for payment of the low-level settlement
- 2 over three years from the Cash Reserve Fund to the Low-Level
- 3 Radioactive Waste Settlement Fund.
- 4 AMENDMENT:
- 5 1. On page 3, strike lines 12 through 15 and insert:
- 6 "(7) On July 29, 2005, July 29, 2006, and July 29, 2007,
- 7 the State Treasurer shall transfer fifty million four hundred three
- 8 thousand six hundred fifty-eight dollars from the Cash Reserve Fund
- 9 to the Low-Level Radioactive Waste Settlement Fund.".

### **MOTION - Print in Journal**

Senator Schimek filed the following motion to LB 425:  
Reconsider the vote taken on AM1374.

### **AMENDMENT - Print in Journal**

Senators Stuthman and Bourne filed the following amendment to LB 425:  
AM1378

(Amendments to Standing Committee amendments, AM0521)

- 1 1. On page 86, lines 20 and 21 strike each occurrence of
- 2 "3,501,405" and insert "4,062,405"; and in lines 24 and 26 strike
- 3 "\$3,501,405" and insert "\$4,062,405".

### **GENERAL FILE**

**LEGISLATIVE BILL 737.** The Wehrbein pending amendment, FA222, found in this day's Journal, was renewed.

**SENATOR CUDABACK PRESIDING**

Senator Wehrbein withdrew his amendment.

Senator Chambers offered the following amendment:

FA224

On page 2 strike lines 24 through 27 and line 28 on page 2 and lines 1-3 on page 3.

Senator Chambers moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

Senator Chambers requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 13:

Byars	Erdman	Jensen	Redfield	Wehrbein
Chambers	Heidemann	McDonald	Smith	
Cornett	Howard	Preister	Thompson	

Voting in the negative, 21:

Aguilar	Brown	Flood	Kruse	Synowiecki
Baker	Combs	Friend	Mines	
Beutler	Connealy	Janssen	Raikes	
Bourne	Cunningham	Kopplin	Schrock	
Brashear	Engel	Kremer	Stuhr	

Present and not voting, 10:

Cudaback	Foley	Louden	Pederson, D.	Schimek
Fischer	Johnson	Pahls	Price	Stuthman

Excused and not voting, 5:

Burling	Hudkins	Landis	Langemeier	Pedersen, Dw.
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The Chambers amendment lost with 13 ayes, 21 nays, 10 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment:

FA223

On page 2, strike lines 20-23.

Senator Chambers withdrew his amendment.

Advanced to E & R for review with 37 ayes, 1 nay, 6 present and not voting, and 5 excused and not voting.

**NOTICE OF COMMITTEE HEARING**  
**Government, Military and Veterans Affairs**  
Room 1507

Thursday, May 12, 2005

8:30 a.m.

Brenda L. Decker - Chief Information Officer

Kim Quandt - Accountability and Disclosure Commission

(Signed) DiAnna R. Schimek, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 364.** Title read. Considered.

The Standing Committee amendment, AM1210, printed separately and referred to on page 1207, was considered.

**SPEAKER BRASHEAR PRESIDING**

Senator Stuhr renewed her pending amendment, AM1293, found on page 1278, to the Standing Committee amendment.

The Stuhr amendment was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 26 ayes, 0 nays, 19 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

**RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LR 93 and 94 were adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 93 and 94.

**GENERAL FILE**

**LEGISLATIVE BILL 683.** Title read. Considered.

The Standing Committee amendment, AM0641, found on page 659, was considered.

**SENATOR CUDABACK PRESIDING**

The Standing Committee amendment was adopted with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 542.** The Standing Committee amendment, AM0932, found on page 1003 and considered on page 1363, was renewed.

Senator Beutler renewed his pending amendment, AM1228, found on page 1217, to the Standing Committee amendment.

Pending.

### **AMENDMENTS - Print in Journal**

Senator Jensen filed the following amendment to LB 542:  
AM1448

(Amendments to AM1099)

- 1 1. On page 1, line 4, strike "fifteen" and insert
- 2 "sixteen"; in line 17 strike "and"; and in line 19 after "Governor"
- 3 insert "; and
- 4 (8) One representative of the health care sector
- 5 appointed by the Governor".

Senator Beutler filed the following amendment to LB 542:  
FA226

Amend AM1099

Add the following new paragraph to Section 2 as follows: "All appointments by the governor shall be from lists of not more than three names supplied by the executive board of the legislature."

### **VISITORS**

Visitors to the Chamber were 45 fourth-grade students and teachers from Arbor Park Middle School, Blair; 18 kindergarten through eighth-grade students and teacher from Trinity Lutheran School, Hoskins; 31 sixth-grade students and teacher from Ponca; and Sandy Larvick and Jacob Bossman from Iowa and Nick Kistermacher from Tennessee.

### **ADJOURNMENT**

At 7:03 p.m., on a motion by Senator Kopplin, the Legislature adjourned until 9:00 a.m., Thursday, May 5, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**SEVENTY-THIRD DAY - MAY 5, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SEVENTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, May 5, 2005

**PRAYER**

The prayer was offered by Pastor Robert Lawrence, South Auburn Church of Christ, Auburn.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Dw. Pedersen who was excused; and Senators Cunningham, Janssen, Landis, and Mines who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-second day was approved.

**COMMUNICATION**

Received petition from the Douglas County Board of Commissioners adopted on May 3, 2005.

**GENERAL FILE**

**LEGISLATIVE BILL 425.** Senator Schimek renewed her pending motion, found on page 1376, to reconsider the vote on AM1374.

Senator Engel moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 3 nays, and 19 not voting.

Senator Schimek moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

Senator Schimek requested a roll call vote on her motion to reconsider.

Voting in the affirmative, 14:

Aguilar	Howard	Kruse	Pederson, D.	Schimek
Brown	Janssen	Landis	Price	Thompson
Chambers	Johnson	McDonald	Raikes	

Voting in the negative, 27:

Baker	Erdman	Hudkins	Mines	Stuhr
Burling	Fischer	Jensen	Pahls	Stuthman
Byars	Flood	Kopplin	Preister	Wehrbein
Cornett	Foley	Kremer	Redfield	
Cunningham	Friend	Langemeier	Schrock	
Engel	Heidemann	Louden	Smith	

Present and not voting, 5:

Beutler	Bourne	Connealy	Cudaback	Synowiecki
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Excused and not voting, 3:

Brashear	Combs	Pedersen, Dw.
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The Schimek motion to reconsider failed with 14 ayes, 27 nays, 5 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, AM1429, found on page 1360, to the Standing Committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 16 ayes, 2 nays, and 31 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 13:

Aguilar	Connealy	Howard	Louden	Schrock
Brashear	Cornett	Kopplin	Pahls	
Chambers	Cudaback	Landis	Price	

Voting in the negative, 14:

Bourne	Engel	Janssen	Redfield	Stuthman
Brown	Erdman	Langemeier	Smith	Wehrbein
Byars	Hudkins	Preister	Stuhr	

Present and not voting, 20:

Baker	Fischer	Heidemann	Kruse	Raikes
Beutler	Flood	Jensen	McDonald	Schimek
Burling	Foley	Johnson	Mines	Synowiecki
Cunningham	Friend	Kremer	Pederson, D.	Thompson

Excused and not voting, 2:

Combs                      Pedersen, Dw.

The Chambers amendment lost with 13 ayes, 14 nays, 20 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Raikes renewed the Raikes et al. pending amendment, AM1432, found on page 1371, to the Standing Committee amendment.

Senator Raikes withdrew the Raikes et al. amendment.

Senator D. Pederson renewed his pending amendment, AM1364, found on page 1371, to the Standing Committee amendment.

The D. Pederson amendment was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Senator Byars renewed his pending amendment, AM1440, found on page 1372, to the Standing Committee amendment.

Pending.

## SELECT COMMITTEE REPORTS

### Enrollment and Review

**LEGISLATIVE BILL 421.** Placed on Select File as amended.

E & R amendment to LB 421:

AM7093

- 1 1. In the Standing Committee amendments, AM1240, on page
- 2 7, line 5, strike "education" and insert "educational".
- 3 2. On page 1, line 6, strike "73,"; and in line 9 strike
- 4 "168" and insert "167".

**LEGISLATIVE BILL 422.** Placed on Select File.

**LEGISLATIVE BILL 423.** Placed on Select File.

**LEGISLATIVE BILL 424.** Placed on Select File.

(Signed) Michael Flood, Chairperson

**AMENDMENTS - Print in Journal**

Senator Schrock filed the following amendment to LB 90:  
AM1459

- 1 1. Insert the following new section:
- 2 "Section 1. Section 66-1214, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 66-1214. (1) Commencing January 1, 1986, motor fuel
- 5 dispensers shall be labeled on both faces with the product identity
- 6 using the most descriptive terms commercially practicable. In
- 7 addition, all alcohol-blended fuel dispensers shall have a label
- 8 stating: With or containing ethanol, methanol, or ethanol and
- 9 methanol or with similar wording if the motor fuel being dispensed
- 10 contains one percent or more by volume of alcohol.
- 11 (2) Any retailer of motor vehicle fuel shall have at
- 12 least one motor fuel dispenser that dispenses alcohol-blended fuel
- 13 if the retailer has two or more motor fuel dispensers.
- 14 (3) Any person who owns or controls such a motor fuel
- 15 dispenser and does not attach the notice required by comply with
- 16 this section shall be guilty of an infraction."
- 17 2. Renumber the remaining sections and correct internal
- 18 references and the repealer accordingly.

Senator Beutler filed the following amendment to LB 57:  
AM1377

- 1 1. On page 3, line 2, after "child" insert "except the
- 2 illegal taking of a controlled substance with knowledge of her
- 3 pregnancy".

Senator Beutler filed the following amendment to LB 57:  
AM1369

- 1 1. On page 2, lines 12, 17, and 23, after "she" insert
- 2 ". knowing of the mother's pregnancy."; and in lines 13, 18, and 24
- 3 strike "an" and insert "her".

**RESOLUTION**

**LEGISLATIVE RESOLUTION 99.** Introduced by Brown, 6.

PURPOSE: To further study the issues raised by the introduction of Legislative Bill 490 during the 2005 legislative session, including determining the extent of the use of governmental entities' geographic computer databases by the public and whether restrictions should be placed on those who would access these databases.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the Committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 683A.** Introduced by Schimek, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 683, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

### **VISITORS**

Visitors to the Chamber were 45 fourth-grade students and teachers from Arbor Park Middle School, Blair; Tim Eckhout from Lincoln; 46 fourth-grade students and teachers from Conestoga Elementary School, Omaha; 50 fourth-grade students and teachers from Westlawn Elementary School, Grand Island; 28 fourth- and fifth-grade students and teacher from Ansley; and 15 students from District 30.

### **RECESS**

At 12:00 p.m., on a motion by Senator Pahls, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

### **ROLL CALL**

The roll was called and all members were present except Senators Hudkins and Dw. Pedersen who were excused; and Senators Cunningham, Kruse, Landis, Price, and Raikes who were excused until they arrive.

### **GENERAL FILE**

**LEGISLATIVE BILL 425.** Senator Byars renewed his pending amendment, AM1440, found on page 1372 and considered in this day's Journal, to the Standing Committee amendment.

Senator Jensen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 4 nays, and 19 not voting.

Senator Byars moved for a call of the house. The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

Senator Byars requested a roll call vote on his amendment.

Senator Thompson requested the roll call vote be taken in reverse order.

Voting in the affirmative, 17:

Aguilar	Connealy	Howard	Louden	Stuthman
Bourne	Cornett	Janssen	McDonald	
Byars	Cunningham	Jensen	Pahls	
Combs	Fischer	Kopplin	Schimek	

Voting in the negative, 17:

Baker	Erdman	Mines	Redfield	Wehrbein
Beutler	Kremer	Pederson, D.	Smith	
Brown	Kruse	Price	Synowiecki	
Chambers	Langemeier	Raikes	Thompson	

Present and not voting, 12:

Brashear	Engel	Friend	Preister
Burling	Flood	Heidemann	Schrock
Cudaback	Foley	Johnson	Stuhr

Excused and not voting, 3:

Hudkins	Landis	Pedersen, Dw.
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The Byars amendment lost with 17 ayes, 17 nays, 12 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Mines renewed his pending amendment, AM1438, found on page 1372, to the Standing Committee amendment.

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 5 nays, and 18 not voting.

Senator Mines moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Senator D. Pederson requested a roll call vote, in reverse order, on the Mines amendment.

Voting in the affirmative, 16:

Bourne	Cornett	Kopplin	Preister
Brashear	Friend	McDonald	Price
Brown	Howard	Mines	Schimek
Connealy	Janssen	Pahls	Stuthman

Voting in the negative, 27:

Baker	Cunningham	Heidemann	Louden	Stuhr
Burling	Engel	Johnson	Pederson, D.	Thompson
Byars	Erdman	Kremer	Raikes	Wehrbein
Chambers	Fischer	Kruse	Redfield	
Combs	Flood	Landis	Schrock	
Cudaback	Foley	Langemeier	Smith	

Present and not voting, 3:

Beutler	Jensen	Synowiecki
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Excused and not voting, 3:

Aguilar	Hudkins	Pedersen, Dw.
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The Mines amendment lost with 16 ayes, 27 nays, 3 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

**NOTICE OF COMMITTEE HEARING**  
**Health and Human Services**  
 Room 1510

Tuesday, May 17, 2005

1:00 p.m.

Luana Duennerman - Commission for the Deaf and Hard of Hearing

(Signed) Jim Jensen, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 100.** Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Combs, 32; Connealy, 16; Cornett, 45; Janssen, 15; Schimek, 27; and Engel, 17; Wehrbein, 2.

**PURPOSE:** The purpose of this study is to examine in more depth the issues raised by LB 630 which was heard by the Urban Affairs Committee during

the 2005 legislative session. That legislation endeavored to deal with the impact of municipal annexation of land located within the boundaries of a rural water district. This study would seek to identify alternative solutions to the problem and to determine how best, consistent with existing state and federal law, to ameliorate the impact of the annexation upon the remaining property and owners of land within the rural water district, including options requiring the municipality to reimburse the rural water district for the lost revenue that results because of the loss of existing rate payers and a formula for payments that would recognize the impact of future losses sustained by the district due to its inability to replace lost revenue with new rate payers.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### AMENDMENTS - Print in Journal

Senator Chambers filed the following amendment to LB 683:  
AM1461

(Amendments to Standing Committee amendments, AM0641)

- 1 1. On page 1, line 9, strike "sixty" and insert
- 2 "seventy-five".
- 3 2. On page 2, line 18, after "hundred" insert
- 4 "fourteen".
- 5 3. On page 3, line 1, strike "ninety" and insert
- 6 "ninety-eight"; in line 20 strike "seventy-five" and insert
- 7 "eighty-four"; in line 22 strike "seventy-five" and insert
- 8 "ninety-one"; in line 23 strike "seventy-five" and insert
- 9 "eighty-seven"; and in line 24 strike "sixty-five" and insert
- 10 "seventy-eight".

Senator Aguilar filed the following amendment to LB 117:  
AM1456

(Amendments to E & R amendments, AM7091)

- 1 1. Insert the following new section:
- 2 "Sec. 7. Section 28-707, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 28-707. (1) A person commits child abuse if he or she
- 5 knowingly, intentionally, or negligently causes or permits a minor
- 6 child to be:
- 7 (a) Placed in a situation that endangers his or her life
- 8 or physical or mental health;
- 9 (b) Cruelly confined or cruelly punished;

- 10 (c) Deprived of necessary food, clothing, shelter, or  
 11 care;  
 12 (d) Placed in a situation to be sexually exploited by  
 13 allowing, encouraging, or forcing such minor child to solicit for  
 14 or engage in prostitution, debauchery, public indecency, or obscene  
 15 or pornographic photography, films, or depictions; ~~or~~  
 16 (e) Placed in a situation to be sexually abused as  
 17 defined in section 28-319 or 28-320.01; or  
 18 (f) Placed in or near the processing, cooking, or  
 19 manufacturing of methamphetamine.  
 20 (2) The statutory privilege between patient and  
 21 physician, between client and professional counselor, and between  
 22 husband and wife shall not be available for excluding or refusing  
 23 testimony in any prosecution for a violation of this section.  
 1 (3) Child abuse under subdivision (1)(a), (1)(b), (1)(c),  
 2 (1)(d), or (1)(e) of this section is a Class I misdemeanor if the  
 3 offense is committed negligently.  
 4 (4) Child abuse under subdivision (1)(a), (1)(b), (1)(c),  
 5 (1)(d), or (1)(e) of this section is a Class IIIA felony if the  
 6 offense is committed knowingly and intentionally and does not  
 7 result in serious bodily injury as defined in section 28-109.  
 8 (5) Child abuse under subdivision (1)(a), (1)(b), (1)(c),  
 9 (1)(d), or (1)(e) of this section is a Class III felony if the  
 10 offense is committed knowingly and intentionally and results in  
 11 serious bodily injury as defined in ~~such~~ section 28-109.  
 12 (6) Child abuse under subdivision (1)(f) of this section  
 13 is a Class III felony.  
 14 (7) Child abuse is a Class IB felony if the offense is  
 15 committed knowingly and intentionally and results in the death of  
 16 such child."  
 17 2. On page 18, line 15, strike "and" and after "28-456"  
 18 insert ", and 28-707".  
 19 3. Renumber the remaining section accordingly.

Senators Redfield and Chambers filed the following amendment to LB 40:  
 AM1446

(Amendments to AM1227)

- 1 1. Insert the following new section:  
 2 "Sec. 3. Section 58-708, Reissue Revised Statutes of  
 3 Nebraska, is amended to read:  
 4 58-708. (1) For purposes of this section, Community  
 5 Development Block Grant means the grants distributed by the United  
 6 States Department of Housing and Urban Development pursuant to the  
 7 Housing and Community Development Act of 1974.  
 8 (2) During each calendar year in which funds are  
 9 available from the Affordable Housing Trust Fund for use by the  
 10 Department of Economic Development, the department shall allocate a  
 11 specific amount of funds equal to a per capita share of the  
 12 qualified allocation plan fund amount to each Community Development

13 Block Grant entitlement area. The department shall announce a  
14 grant and loan application period of at least ninety days duration  
15 for all nonentitlement areas. In selecting projects to receive  
16 trust fund assistance, the department shall develop a qualified  
17 allocation plan and give first priority to financially viable  
18 projects that serve the lowest income occupants for the longest  
19 period of time. The qualified allocation plan shall:  
20 (a) Set forth selection criteria to be used to determine  
21 housing priorities of the housing trust fund which are appropriate  
22 to local conditions, including the community's immediate need for  
23 affordable housing, proposed increases in home ownership, private  
1 dollars leveraged, level of local government support and  
2 participation, and repayment, in part or in whole, of financial  
3 assistance awarded by the fund; and  
4 (b) Give first priority in allocating trust fund  
5 assistance among selected projects to those projects which serve  
6 the lowest income occupant and are obligated to serve qualified  
7 occupants for the longest period of time.  
8 ~~(2)~~ (3) The department shall fund in order of priority as  
9 many applications as will utilize available funds less actual  
10 administrative costs of the department in administering the  
11 program. In administering the program the department may contract  
12 for services or directly provide funds to other governmental  
13 entities or instrumentalities."  
14 2. On page 10, line 5, after the second comma insert  
15 "58-708,".  
16 3. Renumber the remaining sections accordingly.

**GENERAL FILE**

**LEGISLATIVE BILL 425.** Senator Chambers asked unanimous consent to withdraw his pending amendment, AM1441, found on page 1373, and replace it with the Chambers-Brashear substitute amendment, AM1463, to the Standing Committee amendment. No objections. So ordered.  
AM1463

(Amendments to Standing Committee amendments, AM0521)

- 1 1. On page 82, after line 24 insert:  
2 "FY2005-06 FY2006-07  
3 GENERAL FUND 200,000 200,000  
4 PROGRAM TOTAL 200,000 200,000  
5 SALARY LIMIT 200,000 200,000"  
6 and strike line 27.  
7 2. On page 83, strike lines 1 through 6.

**SENATOR SCHIMEK PRESIDING**

The Chambers-Brashear amendment was adopted with 26 ayes, 2 nays, 17 present and not voting, and 4 excused and not voting.

Senator Chambers renewed his pending amendment, AM1379, found on page 1374, to the Standing Committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 23 ayes, 1 nay, and 25 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Aguilar	Cornett	Johnson	Mines	Schimek
Bourne	Cudaback	Kopplin	Pahls	Synowiecki
Chambers	Howard	Kruse	Price	Thompson
Connealy	Janssen	Landis	Raikes	

Voting in the negative, 10:

Engel	Fischer	Friend	Langemeier	Smith
Erdman	Foley	Kremer	Louden	Stuthman

Present and not voting, 12:

Beutler	Burling	Heidemann	Schrock
Brashear	Combs	Jensen	Stuhr
Brown	Flood	Pederson, D.	Wehrbein

Excused and not voting, 8:

Baker	Cunningham	McDonald	Preister
Byars	Hudkins	Pedersen, Dw.	Redfield

The Chambers amendment lost with 19 ayes, 10 nays, 12 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

## **SENATOR CUDABACK PRESIDING**

Senator Chambers withdrew his pending amendments, AM1380 through AM1428 and AM1436, on file and referred to on page 1374.

Senator Chambers renewed his pending amendment, AM1442, found on page 1374, to the Standing Committee amendment.

Senator Chambers withdrew his amendment.

Senator Chambers withdrew his pending amendment, AM1444, found on page 1375.



adoption of amendments to the code in 2004 and 2005. In order to carry out the purpose of this resolution, the committee's review should include, as it deems necessary and beneficial, the input and assistance of interested persons, legal and scholarly commentary nationwide on the Uniform Trust Code, and legislation on this subject in other jurisdictions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **LEGISLATIVE RESOLUTION 102.** Introduced by Smith, 48.

PURPOSE: To examine the feasibility, ramifications, and costs of electronic waste recycling in Nebraska, including the necessary and potential timeframes for implementation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

## **GENERAL FILE**

**LEGISLATIVE BILL 425.** Senator Chambers offered the following amendment to the Standing Committee amendment:

AM1455

(Amendments to Standing Committee amendments, AM0521)

- 1 1. On page 5, strike line 15 and insert "GENERAL FUND
- 2 23,605,816 24,308,960"; and strike line 18 and insert "PROGRAM
- 3 TOTAL 25,240,321 25,948,965".

Senator Chambers withdrew his amendment.

Senator Chambers offered the following amendment to the Standing Committee amendment:

AM1454

(Amendments to Standing Committee amendments, AM0521)

- 1 1. On page 5, strike line 15 and insert "GENERAL FUND

2 23,638,316 24,343,960"; strike line 18 and insert "PROGRAM TOTAL  
3 25,272,821 25,983,965".

Senator Chambers moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

The Chambers amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Bourne withdrew his pending amendment, FA216, found on page 1372.

The Standing Committee amendment, AM0521, printed separately and referred to on page 1334 and considered on page 1369, as amended, was renewed.

The Standing Committee amendment, as amended, was adopted with 42 ayes, 0 nays, 2 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 42 ayes, 0 nays, 2 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 426.** Title read. Considered.

The Standing Committee amendment, AM1282, printed separately and referred to on page 1334, was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 427.** Title read. Considered.

The Standing Committee amendment, AM1288, found on page 1334, was considered.

Senator Chambers withdrew his pending amendments, AM1443 and AM1445, found on page 1376.

The Standing Committee amendment was adopted with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 614.** Title read. Considered.

The Standing Committee amendment, AM0997, found on page 1336, was considered.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Standing Committee amendment was adopted with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

Senator Smith moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

Advanced to E & R for review with 36 ayes, 4 nays, 3 present and not voting, and 6 excused and not voting.

### **VISITORS**

Visitors to the Chamber were Matthew and Sara Dean and Julie Parker from Fairbury; 21 fourth-grade students, teacher, and principal from E.N. Swett Elementary School, South Sioux City; and 100 fourth-grade students and teachers from Neihardt Elementary School, Omaha.

The Doctor of the Day was Dr. David Minnick from Broken Bow.

### **ADJOURNMENT**

At 8:07 p.m., on a motion by Speaker Brashear, the Legislature adjourned until 9:00 a.m., Friday, May 6, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**SEVENTY-FOURTH DAY - MAY 6, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SEVENTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, May 6, 2005

**PRAYER**

The prayer was offered by Senator Kremer.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senator Dw. Pedersen who was excused; and Senators Brown, Cornett, Hudkins, McDonald, Mines, D. Pederson, Raikes, Redfield, Smith, and Synowiecki who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-third day was approved.

**AMENDMENTS - Print in Journal**

Senator McDonald filed the following amendment to LB 426:  
AM1363

(Amendments to Standing Committee amendments, AM1282)

- 1 1. Insert the following new section:
- 2 "Sec. 9. Section 9-812, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 9-812. (1) All money received from the operation of
- 5 lottery games conducted pursuant to the State Lottery Act in
- 6 Nebraska shall be credited to the State Lottery Operation Trust
- 7 Fund, which fund is hereby created. All payments of expenses of
- 8 the operation of the lottery games shall be made from the State
- 9 Lottery Operation Cash Fund. In accordance with legislative
- 10 appropriations, money for payments for expenses of the division
- 11 shall be transferred from the State Lottery Operation Trust Fund to
- 12 the State Lottery Operation Cash Fund, which fund is hereby
- 13 created. Beginning July 1, 2005, the State Treasurer shall
- 14 transfer five hundred thousand dollars each fiscal year from the

15 State Lottery Operation Cash Fund to the Compulsive Gamblers  
16 Assistance Fund. This transfer shall take place before any other  
17 expenditures are made from the State Lottery Operation Cash Fund in  
18 any fiscal year, shall be taken from the advertising, promotion,  
19 and marketing budget of the state lottery, and shall be absorbed  
20 within the operating budget of the state lottery without increased  
21 appropriations to the State Lottery Operation Cash Fund by the  
22 Legislature. All money necessary for the payment of lottery prizes  
23 shall be transferred from the State Lottery Operation Trust Fund to  
1 the State Lottery Prize Trust Fund, which fund is hereby created.  
2 The amount used for the payment of lottery prizes shall not be less  
3 than forty percent of the dollar amount of the lottery tickets  
4 which have been sold. The State Treasurer shall transfer five  
5 million dollars from the State Lottery Operation Trust Fund to the  
6 General Fund within fifteen days after July 1, 2004. Until October  
7 1, 2003, at least twenty-five percent and beginning October 1,  
8 2003, and until January 1, 2008, a portion of the dollar amount of  
9 the lottery tickets which have been sold on an annualized basis  
10 shall be transferred from the State Lottery Operation Trust Fund to  
11 the Education Innovation Fund, the Nebraska Scholarship Fund, the  
12 Nebraska Environmental Trust Fund, and the Compulsive Gamblers  
13 Assistance Fund, except that the dollar amount transferred shall  
14 not be less than the dollar amount transferred to the funds in  
15 fiscal year 2002-03. On and after January 1, 2008, at least  
16 twenty-five percent of the dollar amount of the lottery tickets  
17 which have been sold on an annualized basis shall be transferred  
18 from the State Lottery Operation Trust Fund to the Education  
19 Innovation Fund, the Nebraska Scholarship Fund, the Nebraska  
20 Environmental Trust Fund, and the Compulsive Gamblers Assistance  
21 Fund. Of the money available to be transferred to the Education  
22 Innovation Fund, the Nebraska Scholarship Fund, the Nebraska  
23 Environmental Trust Fund, and the Compulsive Gamblers Assistance  
24 Fund, the first five hundred thousand dollars shall be transferred  
25 to the Compulsive Gamblers Assistance Fund to be used as provided  
26 in section 71-817. Twenty-four and three-fourths percent of the  
27 money remaining after the payment of prizes and operating expenses  
1 and the initial transfer to the Compulsive Gamblers Assistance Fund  
2 shall be transferred to the Education Innovation Fund. Twenty-four  
3 and three-fourths percent of the money remaining after the payment  
4 of prizes and operating expenses and the initial transfer to the  
5 Compulsive Gamblers Assistance Fund shall be transferred to the  
6 Nebraska Scholarship Fund. Forty-nine and one-half percent of the  
7 money remaining after the payment of prizes and operating expenses  
8 and the initial transfer to the Compulsive Gamblers Assistance Fund  
9 shall be transferred to the Nebraska Environmental Trust Fund to be  
10 used as provided in the Nebraska Environmental Trust Act. One  
11 percent of the money remaining after the payment of prizes and  
12 operating expenses and the initial transfer to the Compulsive  
13 Gamblers Assistance Fund shall be transferred to the Compulsive

14 Gamblers Assistance Fund to be used as provided in section 71-817.

15 (2) The Education Innovation Fund is hereby created. At  
16 least seventy-five percent of the lottery proceeds allocated to the  
17 Education Innovation Fund shall be available for disbursement. For  
18 each fiscal year except fiscal years 2003-04, 2004-05, 2005-06, and  
19 2006-07, the Education Innovation Fund shall be allocated in the  
20 following manner: Up to twenty percent to fund the mentor teacher  
21 program pursuant to the Quality Education Accountability Act; up to  
22 forty percent to the Attracting Excellence to Teaching Program Cash  
23 Fund to fund the Attracting Excellence to Teaching Program Act; and  
24 up to forty percent of the fund shall be allocated by the Governor.  
25 For fiscal years 2003-04 and 2004-05, the Education Innovation Fund  
26 shall be allocated to the General Fund after operating expenses for  
27 the Excellence in Education Council are deducted. For fiscal years  
1 2005-06 and 2006-07, the Education Innovation Fund shall be  
2 allocated as follows: The first one million dollars each fiscal  
3 year shall be transferred to the School District Reorganization  
4 Fund, and the remaining amount shall be allocated to the General  
5 Fund after operating expenses for the Excellence in Education  
6 Council are deducted.

7 At the direction of the budget administrator of the  
8 Department of Administrative Services, the State Treasurer shall  
9 transfer available unobligated balances existing in the Education  
10 Innovation Fund to the General Fund on or before July 15, 2005, in  
11 such amounts as determined by the budget administrator, to include:  
12 Any unobligated money remaining as of June 30, 2004, and June 30,  
13 2005, in the Education Innovation Fund, appropriated for the  
14 Excellence in Education Council; investment income credited to the  
15 fund; and unobligated grant fund money returned to the state for  
16 credit to the Education Innovation Fund.

17 Allocations by the Governor shall be through incentive  
18 grants to encourage the development of strategic school improvement  
19 plans by school districts for accomplishing high performance  
20 learning and to encourage schools to establish innovations in  
21 programs or practices that result in restructuring of school  
22 organization, school management, and instructional programs which  
23 bring about improvement in the quality of education. Such  
24 incentive grants allocated by the Governor are intended to provide  
25 selected school districts, teachers or groups of teachers,  
26 nonprofit educational organizations, educational service units, or  
27 cooperatives funding for the allowable costs of implementing pilot  
1 projects and model programs.

2 From the funds allocated by the Governor, minigrants  
3 shall be available to school districts to support the development  
4 of strategic school improvement plans which shall include  
5 statements of purposes and goals for the districts. The plans  
6 shall also include the specific statements of improvement or  
7 strategic initiatives designed to improve quality learning for  
8 every student.

9 In addition to the minigrants granted for the development  
10 of strategic school improvement plans, school districts with annual  
11 budget expenditures of three hundred fifty thousand dollars or less  
12 are eligible for minigrants from the funds allocated by the  
13 Governor for the purposes allowed in subdivisions (2)(a) through  
14 (q) of this section. The amount of this type of minigrant shall  
15 not exceed five thousand dollars. The school district shall  
16 present a curriculum support plan with its application for the  
17 grant. The curriculum support plan must show how the district is  
18 working to achieve one or more of the allowed purposes and how the  
19 grant will be used to directly advance the plan to achieve one or  
20 more of these purposes. The plan must be signed by the school  
21 administrator and a school board representative. The application  
22 for the grant shall be brief. The Excellence in Education Council  
23 shall select the recipients of this type of minigrant and shall  
24 administer such minigrants.

25 From the funds allocated by the Governor, major  
26 competitive grants shall be available to support innovative  
27 programs which are directly related to the strategic school  
1 improvement plans. The development of a strategic school  
2 improvement plan by a school district shall be required before a  
3 grant is awarded. Annual reports shall be made by program  
4 recipients documenting the effectiveness of the program in  
5 improving the quality of education as designed in the strategic  
6 school improvement plans. Special consideration shall be given to  
7 plans which contain public or private matching funds and  
8 cooperative agreements, including agreements for in-kind services.  
9 Purposes for which such major competitive grants would be offered  
10 shall include:

- 11 (a) Professional staff development programs to provide  
12 funds for teacher and administrator training and continuing  
13 education to upgrade teaching and administrative skills;
- 14 (b) The development of strategic school improvement plans  
15 by school districts;
- 16 (c) Educational technology assistance to public schools  
17 for the purchase and operation of computers, telecommunications  
18 equipment and services, and other forms of technological innovation  
19 which may enhance classroom teaching, instructional management, and  
20 districtwide administration. Telecommunications equipment,  
21 services, and forms of technical innovation shall be approved only  
22 after review by the technical panel created in section 86-521;
- 23 (d) An educational accountability program to develop an  
24 educational indicators system to measure the performance and  
25 outcomes of public schools and to ensure efficiency in operations;
- 26 (e) Alternative programs for students, including  
27 underrepresented groups, at-risk students, and dropouts;
- 1 (f) Programs that demonstrate improvement of student  
2 performance against valid national and international achievement  
3 standards;

- 4 (g) Early childhood and parent education which emphasizes
- 5 child development;
- 6 (h) Programs using decisionmaking models that increase
- 7 involvement of parents, teachers, and students in school
- 8 management;
- 9 (i) Increased involvement of the community in order to
- 10 achieve increased confidence in and satisfaction with its schools;
- 11 (j) Development of magnet or model programs designed to
- 12 facilitate desegregation;
- 13 (k) Programs that address family and social issues
- 14 impairing the learning productivity of students;
- 15 (l) Programs enhancing critical and higher-order thinking
- 16 capabilities;
- 17 (m) Programs which produce the quality of education
- 18 necessary to guarantee a competitive work force;
- 19 (n) Programs designed to increase productivity of staff
- 20 and students through innovative use of time;
- 21 (o) Training programs designed to benefit teachers at all
- 22 levels of education by increasing their ability to work with
- 23 educational technology in the classroom;
- 24 (p) Approved accelerated or differentiated curriculum
- 25 programs under sections 79-1106 to 79-1108.03; and
- 26 (q) Programs for children from birth to age twenty-one
- 27 years with disabilities receiving special education under the
- 1 Special Education Act and children from birth to age twenty-one
- 2 years needing support services as defined in section 79-1125.01,
- 3 which programs demonstrate improved outcomes for children from
- 4 birth to age twenty-one years through emphasis on prevention and
- 5 collaborative planning.
- 6 The Governor shall establish the Excellence in Education
- 7 Council. The Governor shall appoint eleven members to the council
- 8 including representatives of educational organizations,
- 9 postsecondary educational institutions, the business community, and
- 10 the general public, members of school boards and parent education
- 11 associations, school administrators, and at least four teachers who
- 12 are engaged in classroom teaching. The State Department of
- 13 Education shall provide staff support for the council to administer
- 14 the Education Innovation Fund, including the Quality Education
- 15 Accountability Act. The council shall have the following powers
- 16 and duties:
- 17 (i) In consultation with the department, develop and
- 18 publish criteria for the awarding of incentive grants allocated by
- 19 the Governor for programs pursuant to this subsection, including
- 20 minigrants;
- 21 (ii) Provide recommendations to the Governor regarding
- 22 the selection of projects to be funded and the distribution and
- 23 duration of project funding;
- 24 (iii) Establish standards, formats, procedures, and
- 25 timelines for the successful implementation of approved programs

26 funded by incentive grants allocated by the Governor from the  
27 Education Innovation Fund;  
1 (iv) Assist school districts in determining the  
2 effectiveness of the innovations in programs and practices and  
3 measure the subsequent degree of improvement in the quality of  
4 education;  
5 (v) Consider the reasonable distribution of funds across  
6 the state and all classes of school districts;  
7 (vi) Carry out its duties pursuant to the Quality  
8 Education Accountability Act; and  
9 (vii) Provide annual reports to the Governor concerning  
10 programs funded by the fund. Each report shall include the number  
11 of applicants and approved applicants, an overview of the various  
12 programs, objectives, and anticipated outcomes, and detailed  
13 reports of the cost of each program.  
14 To assist the council in carrying out its duties, the  
15 State Board of Education shall, in consultation with the council,  
16 adopt and promulgate rules and regulations establishing criteria,  
17 standards, and procedures regarding the selection and  
18 administration of programs funded from the Education Innovation  
19 Fund, including the Quality Education Accountability Act.  
20 (3) Recipients of incentive grants allocated by the  
21 Governor from the Education Innovation Fund shall be required to  
22 provide, upon request, such data relating to the funded programs  
23 and initiatives as the Governor deems necessary.  
24 (4) Any money in the State Lottery Operation Trust Fund,  
25 the State Lottery Operation Cash Fund, the State Lottery Prize  
26 Trust Fund, or the Education Innovation Fund available for  
27 investment shall be invested by the state investment officer  
1 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
2 State Funds Investment Act.  
3 (5) Unclaimed prize money on a winning lottery ticket  
4 shall be retained for a period of time prescribed by rules and  
5 regulations. If no claim is made within such period, the prize  
6 money shall be used at the discretion of the Tax Commissioner for  
7 any of the purposes prescribed in this section."  
8 2. On page 12, line 14, after "sections" insert "9-812,"  
9 and after "71-7611" insert a comma.  
10 3. Renumber the remaining sections accordingly.

Senators Connealy, Baker, Cunningham, Erdman, Flood, Langemeier, and  
Smith filed the following amendment to LB 312:

AM1471

(Amendments to Standing Committee amendments, AM1350)

- 1 1. Insert the following new section:
- 2 "Sec. 12. Section 77-2704.45, Reissue Revised Statutes
- 3 of Nebraska, is amended to read:
- 4 77-2704.45. Sales and use taxes shall not be imposed on
- 5 the gross receipts from the sale, lease, or rental of and the

6 storage, use, or other consumption in this state of:  
 7 (1) Property which will enter into and become an  
 8 ingredient or component part of property manufactured, processed,  
 9 or fabricated for ultimate sale at retail; ~~or~~  
 10 (2) A service listed in subsection (10) of section  
 11 77-2701.16 which will become an ingredient or component part of a  
 12 service listed in subsection (10) of section 77-2701.16 for  
 13 ultimate sale at retail; or  
 14 (3) Refractory materials and lime for use in the  
 15 manufacturing of steel.".  
 16 2. On page 79, line 20, after the last comma insert  
 17 "77-2704.45,".  
 18 3. Renumber the remaining sections and correct internal  
 19 references accordingly.

## REPORT

The following report was received by the Legislature:

### **Investment Finance Authority**

Drinking Water State Revolving Fund Revenue Bonds Series 2004 A

## REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of May 5, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
 Clerk of the Legislature

Fram, A. James, Jr.

Lincoln Chamber of Commerce (Withdrawn 04/28/2005)

Zaenglein, Norbert

Autobody Association, Nebraska (Withdrawn 04/28/2005)

## GENERAL FILE

**LEGISLATIVE BILL 542.** The Standing Committee amendment, AM0932, found on page 1003 and considered on pages 1363 and 1379, was renewed.

Senator Beutler renewed his pending amendment, AM1228, found on page 1217 and considered on page 1379, to the Standing Committee amendment.

Senator Beutler moved for a call of the house. The motion prevailed with 22 ayes, 1 nay, and 26 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 32:

Aguilar	Chambers	Howard	Louden	Schrock
Baker	Combs	Janssen	Mines	Stuhr
Beutler	Cornett	Jensen	Pahls	Synowiecki
Bourne	Cudaback	Johnson	Pederson, D.	Thompson
Brashear	Cunningham	Kopplin	Preister	
Brown	Flood	Kruse	Price	
Byars	Friend	Landis	Schimek	

Voting in the negative, 10:

Burling	Engel	Fischer	Redfield	Stuthman
Connealy	Erdman	Langemeier	Smith	Wehrbein

Present and not voting, 3:

Heidemann	Hudkins	Kremer
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Excused and not voting, 4:

Foley	McDonald	Pedersen, Dw.	Raikes
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The Beutler amendment was adopted with 32 ayes, 10 nays, 3 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Jensen renewed his pending amendment, AM1448, found on page 1379, to the Standing Committee amendment.

Senator Chambers offered the following motion:  
Recommit LB 542 to the Revenue Committee.

## **SENATOR CUDABACK PRESIDING**

## **PRESIDENT SHEEHY PRESIDING**

Senator Chambers moved for a call of the house. The motion prevailed with 28 ayes, 1 nay, and 20 not voting.

Senator Chambers requested a roll call vote, in reverse order, on his motion to recommit to committee.

Voting in the affirmative, 19:

Bourne	Johnson	Langemeier	Pahls	Stuthman
Chambers	Kopplin	Louden	Pederson, D.	Thompson
Cudaback	Kruse	McDonald	Preister	Wehrbein
Howard	Landis	Mines	Redfield	

Voting in the negative, 24:

Aguilar	Byars	Erdman	Heidemann	Raikes
Baker	Connealy	Fischer	Hudkins	Schimek
Beutler	Cornett	Flood	Janssen	Smith
Brown	Cunningham	Foley	Jensen	Stuhr
Burling	Engel	Friend	Kremer	

Present and not voting, 4:

Combs	Price	Schrock	Synowiecki
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Excused and not voting, 2:

Brashear	Pedersen, Dw.
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The Chambers motion to recommit to committee failed with 19 ayes, 24 nays, 4 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

The Jensen pending amendment, AM1448, found on page 1379 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

Senator Burling asked unanimous consent to bracket LB 542 until May 18, 2005. No objections. So ordered.

## **SENATOR CUDABACK PRESIDING**

**LEGISLATIVE BILL 454.** Title read. Considered.

Pending.

## **SELECT COMMITTEE REPORTS** **Enrollment and Review**

**LEGISLATIVE BILL 737.** Placed on Select File as amended.

E & R amendment to LB 737:

AM7092

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. There are hereby appropriated the following
- 4 sums of money, or so much thereof as may be required, from the

5 General Fund or from other funds as indicated in the state  
 6 treasury, not otherwise appropriated, for the payment of claims  
 7 arising out of miscellaneous items of indebtedness owing by the  
 8 State of Nebraska.

9 2004-2005 MISCELLANEOUS CLAIMS

10 DESCRIPTION	DOLLARS
11 Claim No. 04-343, against the Office of the Attorney	
12 General, pay to <u>John Freudenberg</u> , Box 490,	
13 Rushville, NE 69360, out of the General Fund.	679.00
14 Claim No. 04-385, against the University of	
15 Nebraska, pay to <u>St. Elizabeth Regional Medical</u>	
16 <u>Center</u> , c/o Sharon Birch, P.O. Box 30450, Lincoln,	
17 NE 68503, out of the University of Nebraska-Lincoln	
18 Revolving Fund.	25,994.71
19 Claim No. 04-391, against the Office of the Attorney	
20 General, pay to <u>John Freudenberg</u> , Box 490,	
21 Rushville, NE 69360, out of the General Fund.	2,264.60
22 Claim No. 04-759, against the Department of Roads,	
23 pay to <u>Ponderosa Ranch</u> , c/o Gary Burival, 49250	
24 876th Road, O'Neill, NE 68763, out of the Roads	
1 Operations Cash Fund.	17,727.00
2 Claim No. 05-100, against the Department of Revenue,	
3 pay to <u>Arrow Energy Inc.</u> , c/o Nelson Brown Equities,	
4 5201 SW Westgate Drive, Suite 100, Portland,	
5 OR 97221, out of the General Fund.	80,628.61
6 Claim No. 05-130, against the Department of Revenue,	
7 pay to <u>US West Communications</u> , c/o Judy Najera, 1801	
8 California Street, #2500, Denver, CO 80202,	
9 out of the General Fund.	52,209.08
10 Claim No. 05-218, against the Department of	
11 Correctional Services, pay to <u>James Brebner</u> , c/o	
12 CSI, 800 Pioneers Boulevard, Lincoln, NE 68502, out	
13 of the Correctional Industries Revolving	
14 Fund.	4,010.98
15 Claim No. 05-248, against the Office of the	
16 Secretary of State, pay to <u>Nebraska Press</u>	
17 <u>Advertising Service</u> , c/o Allen Beerman, 845 S	
18 Street, Lincoln, NE 68508, out of the General	
19 Fund.	309,845.58
20 Claim No. 05-270, against the Office of the Attorney	
21 General, pay to <u>Nebraska Appleseed Center</u> , c/o	
22 Rebecca Gould, 941 O Street, Suite 105, Lincoln, NE	
23 68508, out of the General Fund.	153,332.58
24 The claims included in this section shall be paid through	
25 Program 536 in Agency 65.	
26 For informational purposes only, the appropriations	
27 contained in this section and fund source:	
1 GENERAL FUND	598,959.45
2 CASH FUNDS	17,727.00

3 REVOLVING FUNDS 30,005.69

4 TOTAL 646,692.14

5 Sec. 2. There are hereby appropriated the following sums  
6 of money, or so much thereof as may be required, from the General  
7 Fund or from other funds as indicated in the state treasury, not  
8 otherwise appropriated, for the payment of tort claims which have  
9 been settled by the Attorney General in the district court or in  
10 which court judgments have been entered and which require the  
11 approval of the Legislature for payment.

12 DESCRIPTION DOLLARS

13 Tort Claim No. 02-458, against the Department of  
14 Roads, pay to Joshua Smith and James Schaefer,  
15 Attorney, 1001 Farnam Street, Omaha, NE 68102,  
16 out of the Roads Operations Cash Fund. 241,000.00

17 The claim included in this section shall be paid through  
18 Program 591 in Agency 65.

19 For informational purposes only, the appropriation  
20 contained in this section and fund source:

21 GENERAL FUND -0-

22 CASH FUNDS 241,000.00

23 TOTAL 241,000.00

24 Sec. 3. There are hereby appropriated the following sums  
25 of money, or so much thereof as may be required, from the indicated  
26 fund in the state treasury, not otherwise appropriated, for the  
27 payment of workers' compensation claims which have been settled by  
1 the Attorney General or in which court judgments have been entered  
2 and which require the approval of the Legislature for payment.

3 DESCRIPTION DOLLARS

4 Workers' compensation judgment, pay to Alice Jones  
5 and Elaine A. Waggoner, Attorney, 216 North 11th  
6 Street, Suite 301, Lincoln, NE 68508, out of the  
7 Workers' Compensation Claims Revolving Fund. 116,285.76

8 Workers' compensation judgment, pay to Cynthia  
9 Blodgett-McDeavitt and Stephen L. Gerdes, Attorney,  
10 11920 Burt Street, #145, Omaha, NE 68154, out of the  
11 Workers' Compensation Claims Revolving Fund. 28,604.66

12 Workers' compensation lump-sum settlement, pay to  
13 Duane Saltz and Ralph Bradley, Attorney, 202 West  
14 3rd Street, Grand Island, NE 68802, out of the  
15 Workers' Compensation Claims Revolving Fund. 35,000.00

16 The claims in this section shall be paid through Program  
17 593 in Agency 65.

18 For informational purposes only, the appropriations  
19 contained in this section and fund source:

20 REVOLVING FUNDS 179,890.42

21 TOTAL 179,890.42

22 Sec. 4. The Director of Administrative Services is  
23 hereby authorized and directed to draw his or her warrants on or  
24 before June 30, 2006, upon the funds in the state treasury

25 enumerated in this act, in favor of the several beneficiaries named  
 26 in this act for the amount set opposite their respective names upon  
 27 the presentation of proper vouchers therefor. The several amounts  
 1 appropriated in this act shall be in full payment of any and all  
 2 claims, rights, causes of action, damages, and demands of every  
 3 character and kind owing by or against the State of Nebraska, its  
 4 officers, agents, and employees, and their successors and assigns  
 5 with respect to each of the beneficiaries respectively in whose  
 6 favor the appropriations are made. The director shall not deliver  
 7 any warrant for any items appropriated in this act until a receipt  
 8 and release in full, releasing the State of Nebraska, its officers,  
 9 employees, and agents, and their successors and assigns, has been  
 10 filed by each of the beneficiaries respectively. Upon presentation  
 11 of the warrants, the State Treasurer is hereby directed to pay the  
 12 same out of money in the General Fund or out of money in other  
 13 funds indicated in this act not otherwise appropriated.

14 Sec. 5. The following requests were filed by state  
 15 agencies seeking permission to write off certain accounts. The  
 16 State Claims Board reviewed and approved the following requests.

17 DESCRIPTION	DOLLARS
18 Request No. 04-426, made by the State Department of	
19 Education	1,145.00
20 Request No. 04-781, made by the Clerk of the	
21 Legislature	8.66
22 Request No. 05-199, made by the Commission for the	
23 Deaf and Hard of Hearing	45.00
24 Request No. 05-204, made by the Department of Insurance	39.00
25 Request No. 05-205, made by the Department of Health	
26 and Human Services	139,047.44
27 Request No. 05-206, made by the Norfolk Veterans' Home	6,940.05
1 Request No. 05-207, made by the Department of Health	
2 and Human Services Regulation and Licensure	332.91
3 Request No. 05-208, made by the Department of Health	
4 and Human Services Finance and Support	676.00
5 Request No. 05-209, made by the Grand Island	
6 Veterans' Home	12,751.96
7 Request No. 05-210, made by the Game and Parks	
8 Commission	24,377.74
9 Request No. 05-211, made by the Game and Parks	
10 Commission	42,199.42

11 Sec. 6. Since an emergency exists, this act takes effect  
 12 when passed and approved according to law."

**LEGISLATIVE BILL 364.** Placed on Select File as amended.

E & R amendment to LB 364:

AM7094

- 1 1. In the Standing Committee amendments, AM1210:
- 2 a. Strike section 4 and insert the following new
- 3 section:

4 "Sec. 4. Section 23-2310.05, Revised Statutes  
5 Supplement, 2004, as amended by section 2, Legislative Bill 503,  
6 Ninety-ninth Legislature, First Session, 2005, is amended to read:  
7 23-2310.05. (1) Each member employed and participating  
8 in the retirement system prior to January 1, 2003, who has elected  
9 not to participate in the cash balance benefit, shall be allowed to  
10 allocate all contributions to his or her employer account to  
11 various investment options. Such investment options shall be the  
12 same as the investment options of the employee account as provided  
13 in subsection (1) of section 23-2309.01. If a member fails to  
14 select an option or combination of options, all of his or her funds  
15 in the employer account shall be placed in the balanced account  
16 option described in subdivision (1)(d) of section 23-2309.01. Each  
17 member shall be given a detailed current description of each  
18 investment option prior to making or revising his or her  
19 allocation.  
20 (2) Each member of the retirement system may allocate  
21 contributions to his or her employer account to the investment  
22 options in percentage increments as set by the board in any  
23 proportion, including full allocation to any one option. A member  
24 may transfer any portion of his or her funds among the options.  
1 The board shall adopt and promulgate rules and regulations for  
2 changes of a member's allocation of contributions to his or her  
3 accounts after his or her most recent allocation and for transfers  
4 from one investment account to another.  
5 (3) The board shall develop a schedule for the allocation  
6 of administrative costs of maintaining the various investment  
7 options and shall assess the costs so that each member pays a  
8 reasonable fee as determined by the board. The money forfeited  
9 pursuant to section 23-2319.01 shall not be used to pay the  
10 administrative costs incurred pursuant to this section.  
11 (4) In order to carry out the provisions of this section,  
12 the board may enter into administrative services agreements for  
13 accounting or record-keeping services. No agreement shall be  
14 entered into unless the board determines that it will result in  
15 administrative economy and will be in the best interests of the  
16 ~~county state~~ and its participating employees.  
17 (5) The state, the board, the state investment officer,  
18 the members of the Nebraska Investment Council, or the county shall  
19 not be liable for any investment results resulting from the  
20 member's exercise of control over the assets in the employer  
21 account."; and  
22 b. On page 55, line 3, strike "and"; in line 4 strike  
23 "23-2310.05."; and in line 6 after the second comma insert "and  
24 section 23-2310.05, Revised Statutes Supplement, 2004, as amended  
25 by section 2, Legislative Bill 503, Ninety-ninth Legislature, First  
26 Session, 2005,".  
27 2. On page 1, strike beginning with "school" in line 1  
1 through line 7 and insert "retirement; to amend sections 79-974,

2 79-978, 79-990, 79-991, 79-992, and 79-9,101, Reissue Revised  
 3 Statutes of Nebraska, sections 23-2308, 23-2308.01, 23-2310.04,  
 4 23-2319.01, 24-702, 24-703, 81-2018, 84-1309.02, 84-1314,  
 5 84-1321.01, 84-1501, and 84-1503.03, Revised Statutes Supplement,  
 6 2004, sections 79-902 and 79-906, Reissue Revised Statutes of  
 7 Nebraska, as amended by sections 8 and 9, respectively, Legislative  
 8 Bill 503, Ninety-ninth Legislature, First Session, 2005, and  
 9 section 23-2310.05, Revised Statutes Supplement, 2004, as amended  
 10 by section 2, Legislative Bill 503, Ninety-ninth Legislature, First  
 11 Session, 2005; to change provisions relating to the County  
 12 Employees Retirement Act, the Judges Retirement Act, the School  
 13 Employees Retirement Act, the Class V School Employees Retirement  
 14 Act, the Nebraska State Patrol Retirement Act, the State Employees  
 15 Retirement Act, and the Public Employees Retirement Board; to  
 16 create and eliminate funds; to harmonize provisions; to provide  
 17 operative dates; to repeal the original sections; to outright  
 18 repeal section 84-1514, Revised Statutes Supplement, 2004; and to  
 19 declare an emergency.".

**LEGISLATIVE BILL 683.** Placed on Select File.

(Signed) Michael Flood, Chairperson

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 103.** Introduced by Schimek, 27.

**PURPOSE:** The purpose of this study is to examine matters and issues within the jurisdiction of the Government, Military and Veterans Affairs Committee.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 104.** Introduced by Schimek, 27; Hudkins, 21.

**PURPOSE:** The purpose of this interim study is to examine the current election process for public power districts. In 2005, Sen. Carol Hudkins introduced Legislative Bill 638 which changed how representatives to a public power district's board of directors are elected. The bill raised questions about who should be able to vote in such elections and whether

the current system provides clarity and fairness to voters. Issues examined by this interim study may include, but are not limited to, the following:

1. Reviewing the current election process for public power districts;
2. Examining whether the election process can be clarified to make it more understandable to candidates and voters; and
3. Determining whether changing the operating area of a public power district will improve the election process.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 105.** Introduced by Schimek, 27; Beutler, 28; Cunningham, 40; Fischer, 43; Kremer, 34; Langemeier, 23; Mines, 18; Stuhr, 24; Wehrbein, 2.

**PURPOSE:** The purpose of this interim study is to examine rural economic development programs available to Nebraska residents and to recommend the most effective way to deliver these programs across the state.

Several bills were introduced in the 2005 legislative session regarding rural economic development programs including LB 273, introduced by Senator Cunningham; LB 309, introduced by Senator Connealy; LB 543, introduced by Senator Wehrbein; and LB 71, introduced by Senator Stuhr. Each bill addressed the issue of rural economic development in different ways. During legislative debate on one of these bills, concerns were raised about the "piecemeal" approach to rural economic development and the lack of general knowledge about how many programs are currently available. The issues addressed by this interim study will include, but are not limited to:

1. Determining what rural economic development programs currently exist on the local, state, and federal level, including grant and incentive programs, as well as programs initiated by nonprofit organizations;
2. Investigating how much money is available on the local, state, and federal level, as well as funding from private sources, for rural economic development in Nebraska;
3. Examining how these development funds are spent, what types of projects are funded, which entities receive the funds, how effective these programs have been, and whether there is a system of accountability for how these funds are spent; and
4. Evaluating how to prioritize funds for rural economic development programs and how to spend these funds most efficiently.

The Department of Economic Development, including the Rural Development Commission, the office of the Legislative Fiscal Analyst, the

Rural Initiative at the University of Nebraska, and the Director of Research, as well as other interested parties, may be asked to participate in the study.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Executive Board of the Legislative Council shall appoint a thirteen-member committee designated to conduct an interim study to carry out the purposes of this resolution. Members of the committee shall be appointed from the membership of the Agriculture Committee of the Legislature, the Appropriations Committee of the Legislature, the Banking, Commerce and Insurance Committee of the Legislature, the Government, Military and Veterans Affairs Committee of the Legislature, and the Revenue Committee of the Legislature. Additional members interested in the issue of rural economic development may be appointed. The chairperson of the thirteen-member committee shall be designated by the Executive Board from among the membership of the committee.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 614A.** Introduced by Pahls, 31.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 614, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

### **AMENDMENTS - Print in Journal**

Senator Chambers filed the following amendment to LB 542:  
FA229

Amend AM0932

On page 1 in line 10 strike both appearances of "our" and insert "the".

Senator Chambers filed the following amendment to LB 542:  
FA230

Amend AM1099

1. On page 1, in line 4 strike "fifteen" and insert "five hundred ten";
2. In lines 8, 10, 12, 14 strike "representative" and insert "hundred representatives"

Senator Beutler filed the following amendment to LB 542:  
FA231

Amend AM0932

On page 3, strike lines 1 through 6 and on page 2 strike lines 23 through 27.

Senator Chambers filed the following amendment to LB 542:

FA234

Amend AM1099

Add a new section: "In the interest of production agriculture, meetings shall be held only on rainy days or at night since hay must be made while the sun shines."

## GENERAL FILE

**LEGISLATIVE BILL 454.** The Standing Committee amendment, AM0810, printed separately and referred to on page 1076, was considered.

Senator Beutler renewed his pending amendment, AM1233, found on page 1217, to the Standing Committee amendment.

Pending.

## AMENDMENTS - Print in Journal

Senator Mines filed the following amendment to LB 454:

AM0652

- 1 1. Strike original section 15 and insert the following
- 2 new section:
- 3 "Sec. 15. (1)(a) Except as otherwise provided, a
- 4 permitholder shall not, under any circumstances, carry a concealed
- 5 handgun into any: Police, sheriff, or Nebraska State Patrol
- 6 station or office; detention facility, prison, or jail; courtroom
- 7 or building which contains a courtroom; polling place during a bona
- 8 fide election; meeting of the governing body of a county, public
- 9 school district, municipality, or other political subdivision;
- 10 meeting of the Legislature or a committee of the Legislature;
- 11 financial institution; professional, semiprofessional, or
- 12 collegiate athletic event; school, school grounds, school-owned
- 13 vehicle, or school-sponsored activity or athletic event; place of
- 14 worship; emergency room or trauma center; political rally or
- 15 fundraiser; establishment having a license issued under the
- 16 Nebraska Liquor Control Act that derives over one-half of its total
- 17 income from the sale of alcoholic liquor; place where the
- 18 possession or carrying of a firearm is prohibited by state or
- 19 federal law; or into or onto any other place or premises where
- 20 handguns are prohibited by law or rule or regulation.
- 21 (b) A financial institution may authorize its security
- 22 personnel to carry concealed handguns in the financial institution
- 23 while on duty so long as each member of the security personnel, as
- 24 authorized, is in compliance with the Concealed Handgun Permit Act
- 1 and possesses a permit to carry a concealed handgun issued pursuant
- 2 to the act.
- 3 (2) A permitholder shall not carry a concealed handgun

4 into or onto any place or premises unless the person, persons,  
 5 entity, or entities in control of the property or employer in  
 6 control of the property has posted conspicuous notice that carrying  
 7 a concealed handgun is allowed in or on the place or premises. A  
 8 permitholder carrying a concealed handgun in a vehicle into or onto  
 9 any place or premises does not violate this section so long as the  
 10 handgun is not removed from the vehicle while the vehicle is in or  
 11 on the place or premises. An employer may prohibit employees or  
 12 other persons who are permitholders from carrying concealed  
 13 handguns in vehicles owned by the employer.  
 14 (3) A permitholder shall not carry a concealed handgun  
 15 while he or she is consuming alcohol or while the permitholder has  
 16 remaining in his or her blood, urine, or breath any previously  
 17 consumed alcohol or any controlled substance as defined in section  
 18 28-401. A permitholder does not violate this subsection if the  
 19 controlled substance in his or her blood, urine, or breath was  
 20 lawfully obtained and was taken in therapeutically prescribed  
 21 amounts."

Senator Thompson filed the following amendment to LB 454:

FA232

Amend AM0810

On page 9, lines 11, 13, and 15 strike "or emergency services personnel"

Senator Thompson filed the following amendment to LB 454:

FA233

Amend AM0810

On page 10, line 25, after "event;" insert "an activity or athletic event in a public place;"

Senator Thompson filed the following amendment to LB 454:

AM1477

(Amendments to Standing Committee amendments, AM0810)

- 1 1. On page 7, strike beginning with "The" in line 7
- 2 through line 8; strike beginning with "The" in line 12 through
- 3 "renewal" in line 13 and insert "Renewal"; in line 15 after "(3)"
- 4 insert "The Nebraska State Patrol shall establish fees for initial
- 5 and renewal applications for applicants at rates sufficient to
- 6 cover the costs of administering the Concealed Handgun Permit Act";
- 7 and in line 16 strike "Nebraska State Patrol" and insert "patrol".

Senator Thompson filed the following amendment to LB 454:

AM1479

(Amendments to Standing Committee amendments, AM0810)

- 1 1. Strike section 14 and insert the following new
- 2 section:
- 3 "Sec. 14. (1) A permitholder shall carry his or her
- 4 permit to carry a concealed handgun and his or her Nebraska
- 5 driver's license, Nebraska-issued state identification card, or

6 military identification card any time he or she carries a concealed  
 7 handgun. The permitholder shall display both the permit to carry a  
 8 concealed handgun and his or her Nebraska motor vehicle operator's  
 9 license, Nebraska-issued state identification card, or military  
 10 identification card when asked to do so by a peace officer.

11 (2) Whenever a permitholder who is carrying a concealed  
 12 handgun is contacted by a peace officer, the permitholder shall  
 13 immediately inform the peace officer that the permitholder is  
 14 carrying a concealed handgun.

15 (3)(a) During contact with a permitholder, a peace  
 16 officer may secure the handgun or direct that it be secured during  
 17 the duration of the contact if the peace officer determines that it  
 18 is necessary for the safety of any person present, including the  
 19 peace officer. The permitholder shall submit to the order to  
 20 secure the handgun.

21 (b) When the peace officer has determined that the  
 22 permitholder is not a threat to the safety of any person present,  
 23 including the peace officer, and the permitholder has not committed  
 1 any other violation that would result in his or her arrest or the  
 2 suspension or revocation of his or her permit, the peace officer  
 3 shall return the handgun to the permitholder before releasing the  
 4 permitholder from the scene and breaking contact.

5 (4) For purposes of this section, contact with a peace  
 6 officer means any time a peace officer personally stops, detains,  
 7 questions, or addresses a permitholder for an official purpose or  
 8 in the course of his or her official duties."

9 2. On page 1, strike beginning with "Emergency" in line  
 10 13 through "(3)" in line 17; and in line 20 strike "(4)" and insert  
 11 "(3)".

12 3. On page 2, line 4, strike "(5)" and insert "(4)";  
 13 and in line 7 strike "(6)" and insert "(5)".

Senator Thompson filed the following amendment to LB 454:  
 AM1478

(Amendments to Standing Committee amendments, AM0810)

- 1 1. On page 10, line 27, strike "that derives over".
- 2 2. On page 11, line 1, strike "one-half of its total
- 3 income from the sale of alcoholic liquor".

## VISITORS

Visitors to the Chamber were Rodale and Renate Emken from Holdrege and Karin and Oskar Weinsdorfer from Germany; Ning Chong from China; 21 fourth-grade students and teacher from Emerson-Hubbard Schools, Emerson; 59 students and teachers from C.L. Jones Middle School, Minden; 23 fifth-grade students and teacher from Creighton; Steve and Dianne Armour from Ogallala, Audrey Murry from Holyoke, Colorado, and Stephanie Wheeler from Lincoln; 16 eighth-grade students and teacher from Bassett; 25 first-grade students and teacher from Friend; 36 students,

teachers, and parents from Peter Sarpy School, Bellevue; 35 fourth-grade students and teachers from Tri-County Schools, DeWitt; and Richard Domaniza from Slovakia and Jakin, Joshua, Rachel, Simeon, and Audrey Berns from Bladen.

### **ADJOURNMENT**

At 1:54 p.m., on a motion by Speaker Brashear, the Legislature adjourned until 10:00 a.m., Monday, May 9, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**SEVENTY-FIFTH DAY - MAY 9, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**SEVENTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, May 9, 2005

**PRAYER**

The prayer was offered by Senator Fischer.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brown, Byars, Combs, Foley, Dw. Pedersen, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-fourth day was approved.

**MESSAGE FROM THE GOVERNOR**

May 6, 2005

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 38e, 382e, and 551e were received in my office on May 3, 2005.

These bills were signed by me and delivered to the Secretary of State on May 6, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

**GENERAL FILE****LEGISLATIVE BILL 683A.** Title read. Considered.

Senator Schimek offered the following amendment:

AM1494

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. There is hereby appropriated \$8,262 from the
- 4 General Fund for FY2006-07 to the Governor, for Program 2, to aid
- 5 in carrying out the provisions of Legislative Bill 683,
- 6 Ninety-ninth Legislature, First Session, 2005.
- 7 Total expenditures for permanent and temporary salaries
- 8 and per diems from funds appropriated in this section shall not
- 9 exceed \$7,500 for FY2006-07.
- 10 Sec. 2. There is hereby appropriated \$2,879 from the
- 11 General Fund for FY2006-07 to the Lieutenant Governor, for Program
- 12 8, to aid in carrying out the provisions of Legislative Bill 683,
- 13 Ninety-ninth Legislature, First Session, 2005.
- 14 Total expenditures for permanent and temporary salaries
- 15 and per diems from funds appropriated in this section shall not
- 16 exceed \$2,500 for FY2006-07.
- 17 Sec. 3. There is hereby appropriated \$5,758 from the
- 18 General Fund for FY2006-07 to the Secretary of State, for Program
- 19 9, to aid in carrying out the provisions of Legislative Bill 683,
- 20 Ninety-ninth Legislature, First Session, 2005.
- 21 Total expenditures for permanent and temporary salaries
- 22 and per diems from funds appropriated in this section shall not
- 23 exceed \$5,000 for FY2006-07.
- 24 Sec. 4. There is hereby appropriated \$8,637 from the
- 1 General Fund for FY2006-07 to the Auditor of Public Accounts, for
- 2 Program 10, to aid in carrying out the provisions of Legislative
- 3 Bill 683, Ninety-ninth Legislature, First Session, 2005.
- 4 Total expenditures for permanent and temporary salaries
- 5 and per diems from funds appropriated in this section shall not
- 6 exceed \$7,500 for FY2006-07.
- 7 Sec. 5. There is hereby appropriated \$8,572 from the
- 8 General Fund for FY2006-07 to the Attorney General, for Program 11,
- 9 to aid in carrying out the provisions of Legislative Bill 683,
- 10 Ninety-ninth Legislature, First Session, 2005.
- 11 Total expenditures for permanent and temporary salaries
- 12 and per diems from funds appropriated in this section shall not
- 13 exceed \$7,500 for FY2006-07.
- 14 Sec. 6. There is hereby appropriated \$8,637 from the
- 15 General Fund for FY2006-07 to the State Treasurer, for Program 12,
- 16 to aid in carrying out the provisions of Legislative Bill 683,
- 17 Ninety-ninth Legislature, First Session, 2005.
- 18 Total expenditures for permanent and temporary salaries

19 and per diems from funds appropriated in this section shall not  
20 exceed \$7,500 for FY2006-07.

21 Sec. 7. There is hereby appropriated \$28,788 from the  
22 General Fund for FY2006-07 to the Public Service Commission, for  
23 Program 14, to aid in carrying out the provisions of Legislative  
24 Bill 683, Ninety-ninth Legislature, First Session, 2005.

25 Total expenditures for permanent and temporary salaries  
26 and per diems from funds appropriated in this section shall not  
27 exceed \$25,000 for FY2006-07.

1 Sec. 8. Since an emergency exists, this act takes effect  
2 when passed and approved according to law."

The Schimek amendment was adopted with 33 ayes, 0 nays, 10 present and  
not voting, and 6 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 9 present and not  
voting, and 6 excused and not voting.

## **BILLS ON FINAL READING**

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the  
reading at large of LB 82 with 39 ayes, 1 nay, 4 present and not voting, and  
5 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 82.**

A BILL FOR AN ACT relating to personal property; to amend sections  
52-604, 60-6,114, 60-6,294, 60-6,297, 60-6,298, 60-2404, and 60-2410,  
Reissue Revised Statutes of Nebraska, and sections 9-317 and 9-324,  
Uniform Commercial Code; to change provisions relating to liens, towing,  
and operation of emergency vehicles; to except emergency vehicles from  
size and weight restrictions and require a permit for operation of emergency  
vehicles as prescribed; to change provisions relating to purchase-money  
security interests; to harmonize provisions; to provide operative dates; and  
to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure  
having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Cudaback	Hudkins	Louden	Schimek
Baker	Cunningham	Janssen	McDonald	Schrock
Beutler	Engel	Jensen	Mines	Smith
Bourne	Erdman	Johnson	Pahls	Stuhr
Brashear	Fischer	Kopplin	Pederson, D.	Stuthman
Burling	Flood	Kremer	Preister	Synowiecki
Byars	Friend	Kruse	Price	Wehrbein
Connealy	Heidemann	Landis	Raikes	
Cornett	Howard	Langemeier	Redfield	

Voting in the negative, 0.

Present and not voting, 1:

Chambers

Excused and not voting, 5:

Brown                      Combs                      Foley                      Pedersen, Dw. Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 161 with 36 ayes, 3 nays, 5 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 161.**

A BILL FOR AN ACT relating to political subdivisions; to amend sections 14-405, 15-201, 16-669, 16-670, 17-522, 19-905, 19-2404, 19-2405, 23-165, and 74-1307, Reissue Revised Statutes of Nebraska, and sections 16-611 and 17-558, Revised Statutes Supplement, 2004; to change provisions relating to zoning, the vacation of streets and alleys, sewer and water improvements, and sidewalk construction and maintenance; to provide powers relating to trees; to provide for special assessment districts; to change provisions relating to bond issuance by railroad transportation safety districts; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 40:

Aguilar	Cornett	Howard	Landis	Raikes
Baker	Cudaback	Hudkins	Louden	Redfield
Bourne	Cunningham	Janssen	McDonald	Schimek
Brashear	Engel	Jensen	Mines	Smith
Burling	Fischer	Johnson	Pahls	Stuhr
Byars	Flood	Kopplin	Pederson, D.	Stuthman
Chambers	Friend	Kremer	Preister	Synowiecki
Connealy	Heidemann	Kruse	Price	Wehrbein

Voting in the negative, 2:

Erdman            Langemeier

Present and not voting, 2:

Beutler            Schrock

Excused and not voting, 5:

Brown            Combs            Foley            Pedersen, Dw. Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 401 with 33 ayes, 4 nays, 7 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 401.**

A BILL FOR AN ACT relating to elections; to amend sections 31-735, 32-101, 32-903, 32-904, 32-915, 32-939, and 32-1041, Reissue Revised Statutes of Nebraska; to change provisions relating to the election of the board of trustees of sanitary and improvement districts; to change provisions relating to registering to vote, precincts, polling places, voting, and ballots; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Aguilar	Cunningham	Janssen	Louden	Redfield
Baker	Engel	Jensen	McDonald	Schimek
Beutler	Erdman	Johnson	Mines	Schrock
Brashear	Fischer	Kopplin	Pahls	Smith
Burling	Flood	Kremer	Pederson, D.	Stuhr
Byars	Friend	Kruse	Preister	Stuthman
Cornett	Heidemann	Landis	Price	Wehrbein
Cudaback	Hudkins	Langemeier	Raikes	

Voting in the negative, 0.

Present and not voting, 5:

Bourne	Chambers	Connealy	Howard	Synowiecki
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Excused and not voting, 5:

Brown	Combs	Foley	Pedersen, Dw. Thompson
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A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

### **LEGISLATIVE BILL 682.**

A BILL FOR AN ACT relating to elections; to amend sections 32-564 and 32-571, Reissue Revised Statutes of Nebraska; to change provisions relating to filling a vacancy in the office of Representative in Congress; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Cunningham	Janssen	McDonald	Schrock
Baker	Engel	Jensen	Mines	Smith
Beutler	Erdman	Johnson	Pahls	Stuhr
Bourne	Fischer	Kopplin	Pederson, D.	Stuthman
Brashear	Flood	Kremer	Preister	Synowiecki
Burling	Friend	Kruse	Price	Wehrbein
Byars	Heidemann	Landis	Raikes	
Cornett	Howard	Langemeier	Redfield	
Cudaback	Hudkins	Louden	Schimek	

Voting in the negative, 0.

Present and not voting, 2:

Chambers      Connealy

Excused and not voting, 5:

Brown              Combs              Foley              Pedersen, Dw. Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

## GENERAL FILE

**LEGISLATIVE BILL 748.** Title read. Considered.

The Standing Committee amendment, AM0435, found on page 678, was considered.

Senator Bourne offered the following amendment to the Standing Committee amendment:

AM1493

(Amendments to Standing Committee amendments, AM0435)

- 1 1. On page 2, line 6, after the first comma insert "line
- 2 21, after 'are' insert 'adjacent to facilities of the metropolitan
- 3 utilities district and'; in".

Pending.

**SPEAKER BRASHEAR PRESIDING**

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 106.** Introduced by Kremer, 34.

**PURPOSE:** The purpose of this interim study is to examine goals and funding for animal damage control programs. The study shall specifically examine the allocation of responsibility for animal damage control between the state, local governments and individual cooperators utilizing animal damage control services, the availability of animal damage control services for protecting human health, public infrastructures, and wildlife resources in addition to minimizing conflicts with agriculture, and potential sources of funding to carry out animal damage control services in cooperation with the Wildlife Services Division of the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative

Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 107.** Introduced by McDonald, 41; Kremer, 34.

**PURPOSE:** This study shall examine the need to update and clarify Nebraska's law of division fences, sections 34-101 et seq., Nebraska Revised Statutes. The study shall specifically examine (1) the statutory liabilities and responsibilities of owners of adjoining properties with respect to erecting and maintaining division fences, (2) the means available to property owners for resolving disputes arising under the law of division fences, (3) whether improvements could be made in the process of appointing fence viewer panels and in the timeline and process for appeal of fence viewer decisions, (4) the availability of private civil remedies, and (5) whether access to mediation services under the Farm Mediation Act or other programs should be made available.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

<b>LB/LR</b>	<b>Committee</b>
LR 98	Executive Board

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

### **AMENDMENT - Print in Journal**

Senator Schrock filed the following amendment to LB 120:  
AM1476

- 1 1. Strike original section 2 and insert the following
- 2 new sections:
- 3 "Sec. 2. Section 37-420, Reissue Revised Statutes of
- 4 Nebraska, as amended by section 6, Legislative Bill 54,
- 5 Ninety-ninth Legislature, First Session, 2005, and section 6,
- 6 Legislative Bill 162, Ninety-ninth Legislature, First Session,
- 7 2005, is amended to read:

8 37-420. (1) Any veteran ~~of any war as defined in section~~  
9 ~~80-401.01~~ who is a legal resident of the State of Nebraska and who  
10 was discharged or separated with a characterization of honorable or  
11 general (under honorable conditions) shall be exempt from the  
12 payment of any fees provided by the laws of the State of Nebraska  
13 and established by the commission pursuant to section 37-327 for  
14 the privilege of fishing or hunting in Nebraska if the veteran:

15 (a) Is rated by the United States Department of Veterans  
16 Affairs as fifty percent or more disabled as a result of service in  
17 the armed forces of the United States; or

18 (b) Is receiving a pension from the department as a  
19 result of total and permanent disability, which disability was not  
20 incurred in the line of duty in the military service.

21 (2) The exemption described in subsection (1) of this  
22 section shall not extend to the privilege of commercial fishing,  
23 trapping of fur-bearing animals, or hunting for deer, antelope,  
24 wild turkey, or any other species of fish and game on which the  
1 open season is limited to a restricted number of permits or to  
2 special permits for a restricted area or game management unit.

3 (3) If disabled persons are unable by reason of physical  
4 infirmities to hunt and fish in the normal manner, the commission  
5 may issue special permits without cost to those persons to hunt and  
6 fish from a vehicle, but such permits shall not authorize any  
7 person to shoot from any public highway.

8 (4) All permits issued without the payment of any fees  
9 pursuant to this section shall be perpetual and become void only  
10 upon termination of eligibility as provided in this section.

11 (5) The commission may adopt and promulgate rules and  
12 regulations necessary to carry out this section.

13 (6) Permits issued under subdivision (3) of this section  
14 as it existed prior to the operative date of this section shall not  
15 expire as provided in section 37-421.

16 Sec. 3. Section 37-421, Reissue Revised Statutes of  
17 Nebraska, as amended by section 7, Legislative Bill 162,  
18 Ninety-ninth Legislature, First Session, 2005, is amended to read:

19 37-421. (1) The commission may issue an annual  
20 combination fishing and hunting permit upon application and payment  
21 of a fee of five dollars to (a) any Nebraska resident ~~who is a~~  
22 ~~veteran of any war as defined in section 80-401.01~~, who is  
23 sixty-four years of age or older, and who was discharged or  
24 separated with a characterization of honorable or general (under  
25 honorable conditions) or (b) any Nebraska resident who is  
26 sixty-nine years of age or older. A person who is issued a permit  
27 under this section shall be exempt from the payment of any  
1 additional fees provided by the laws of the State of Nebraska and  
2 established by the commission pursuant to section 37-327 for the  
3 privilege of fishing or hunting in Nebraska, except that such  
4 exemption shall not extend to the privilege of commercial fishing,  
5 trapping of fur-bearing animals, or hunting for deer, antelope,

6 wild turkey, or any other species of fish and game on which the open season is limited to a restricted number of permits or to special permits for a restricted area or game management unit.

(2) A permit issued as provided in this section shall expire as provided in section 37-405. Permits issued under this section as it existed before the operative date of this section shall not expire as provided in section 37-405.

(3) If disabled persons are unable by reason of physical infirmities to hunt and fish in the normal manner, the commission may issue special permits without cost to those persons to hunt and fish from a vehicle, but such permits shall not authorize any person to shoot from any public highway.

(4) The commission may adopt and promulgate rules and regulations necessary to carry out this section.

Sec. 4. Section 37-729, Reissue Revised Statutes of Nebraska, is amended to read:

37-729. For purposes of sections 37-729 to 37-736:

(1) Land includes roads, water, watercourses, private ways, and buildings, structures, and machinery or equipment thereon when attached to the realty;

(2) Lease means an agreement between an owner of land and a nonprofit conservation corporation, political subdivision, or state or federal agency;

(3) Owner includes tenant, lessee, occupant, or person in control of the premises;

~~(3)~~ (4) Recreational purposes includes, but is not limited to, any one or any combination of the following: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, wildlife viewing including bird viewing, waterskiing, winter sports, and visiting, viewing, or enjoying historical, archaeological, scenic, or scientific sites, or otherwise using land for purposes of the user; and

~~(4)~~ (5) Charge means the amount of money asked in return for an invitation to enter or go upon the land.

Sec. 5. Section 37-733, Reissue Revised Statutes of Nebraska, is amended to read:

37-733. (1) Unless otherwise agreed in writing, an owner of land ~~(a) leased to the state for recreational purposes for recreational purposes or wildlife benefits by any nonprofit conservation corporation, political subdivision, or state or federal agency or~~ (b) receiving wildlife habitat improvement payments from any nonprofit conservation corporation, political subdivision, or state or federal agency owes no duty of care to keep that land safe for entry or use by others or to give warning to persons entering or going upon such land of any hazardous conditions, uses, structures, or activities thereon. ~~Am~~

(2) Such owner who leases land to the state for recreational purposes shall not by giving such lease or receiving such wildlife habitat improvement payment (a) ~~(1)~~ extend any

1 assurance to any person using the land that the premises are safe  
2 for any purpose, ~~(2)~~ (b) confer upon such persons the legal status  
3 of an invitee or licensee to whom a duty of care is owed, or ~~(3)~~  
4 (c) assume responsibility for or incur liability for any injury to  
5 person or property caused by an act or omission of a person who  
6 enters upon the leased land.

7 (3) The provisions of this section shall apply whether  
8 the person entering upon the leased land is an invitee, licensee,  
9 trespasser, or otherwise.

10 Sec. 6. Section 37-734, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 37-734. Nothing in sections 37-729 to 37-736 limits in  
13 any way any liability which otherwise exists (1) for willful or  
14 malicious failure to guard or warn against a dangerous condition,  
15 use, structure, or activity or (2) for injury suffered in any case  
16 where the owner of land charges the person or persons who enter or  
17 go on the land. ~~Rental paid by a group, organization, corporation,~~  
18 ~~or the state or federal government shall not be deemed a charge~~  
19 ~~made by the owner of the land. Lease payments for recreational~~  
20 ~~purposes or wildlife benefits or wildlife habitat improvement~~  
21 ~~payments made by any nonprofit conservation corporation, political~~  
22 ~~subdivision, or state or federal agency shall not be deemed a~~  
23 ~~charge made by the owner of the land.~~

24 Sec. 7. Sections 1, 2, 3, and 8 of this act become  
25 operative on January 1, 2006. The other sections of this act  
26 become operative on their effective date.

27 Sec. 8. Original section 54-2419, Reissue Revised  
1 Statutes of Nebraska, section 37-420, Reissue Revised Statutes of  
2 Nebraska, as amended by section 6, Legislative Bill 54,  
3 Ninety-ninth Legislature, First Session, 2005, and section 6,  
4 Legislative Bill 162, Ninety-ninth Legislature, First Session,  
5 2005, and section 37-421, Reissue Revised Statutes of Nebraska, as  
6 amended by section 7, Legislative Bill 162, Ninety-ninth  
7 Legislature, First Session, 2005, are repealed.

8 Sec. 9. Original sections 37-729, 37-733, and 37-734,  
9 Reissue Revised Statutes of Nebraska, are repealed.

10 Sec. 10. Since an emergency exists, this act takes  
11 effect when passed and approved according to law."

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the  
Speaker signed the following: LBs 82, 161, 401, and 682.

### **RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR 95 was adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 95.

**VISITORS**

Visitors to the Chamber were 60 fifth-grade students and teachers from Wahoo; Bryan Kelley from Lincoln; 18 fourth-grade students and teacher from Trinity Lutheran School, Lincoln; Senator Loudon's wife and daughter, SharonAnn Loudon from Ellsworth and Jennifer Sutton from Chicago; members of the Community Character Development Coalition from Norfolk and Pierce; 52 fourth-grade students and teacher from St. Michael's Elementary School, Hastings; 21 third- and fourth-grade students and teacher from Zion Lutheran School, Hastings; Sharon Zych and Lyn Mueller from Bellevue; and 45 fourth-grade students and teachers from Montclair Elementary School, Omaha.

**RECESS**

At 11:59 a.m., on a motion by Senator Aguilar, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Aguilar, Brown, Cornett, Flood, Johnson, Kruse, Dw. Pedersen, and Raikes who were excused until they arrive.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 9, 2005, at 12:03 p.m. were the following: LBs 82, 161, 401, and 682.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**MESSAGE FROM THE GOVERNOR**

May 9, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was reappointed to the Nebraska Liquor Control Commission.

**APPOINTEE:**

Robert E. Logsdon, 1352 Aldrich Road, Lincoln NE 68510

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/  
Enclosure

**GENERAL FILE**

**LEGISLATIVE BILL 748.** The Bourne pending amendment, AM1493, found in this day's Journal, to the Standing Committee amendment, was renewed.

Senator Landis offered the following motion:  
Recommit LB 748 to committee.

Senator Engel moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 6 nays, and 18 not voting.

Senator Landis moved for a call of the house. The motion prevailed with 34 ayes, 0 nays, and 15 not voting.

Senator Landis requested a roll call vote on his motion to recommit to committee.

Voting in the affirmative, 30:

Baker	Cunningham	Johnson	McDonald	Schrock
Brown	Engel	Kopplin	Pedersen, Dw.	Smith
Burling	Erdman	Kremer	Pederson, D.	Stuhr
Byars	Foley	Landis	Preister	Stuthman
Combs	Friend	Langemeier	Redfield	Thompson
Cudaback	Hudkins	Louden	Schimek	Wehrbein

Voting in the negative, 6:

Bourne	Howard	Kruse
Connealy	Janssen	Synowiecki

Present and not voting, 10:

Beutler	Chambers	Heidemann	Mines	Price
Brashear	Fischer	Jensen	Pahls	Raikes

Excused and not voting, 3:

Aguilar	Cornett	Flood
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The Landis motion to recommit to committee prevailed with 30 ayes, 6 nays, 10 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

### **REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

Logsdon, Robert E. - Nebraska Liquor Control Commission - General Affairs

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

### **SELECT COMMITTEE REPORTS** **Enrollment and Review**

**LEGISLATIVE BILL 425.** Placed on Select File as amended.

E & R amendment to LB 425:

AM7098

- 1 1. In the Standing Committee amendments, AM0521:
- 2 a. On page 2, line 14, strike "section" and insert
- 3 "sections 137 and ";
- 4 b. On page 3, lines 4 and 5, strike "\$100,000 Cash Funds
- 5 for FY2006-07" and insert "for FY2006-07 \$100,000 Cash Funds";
- 6 c. On page 7, line 10, strike "State";
- 7 d. On page 14, lines 20 and 27; and page 15, line 6,
- 8 after "and" insert "such appropriations";
- 9 e. On page 14, line 22; and page 50, line 2, strike the
- 10 comma;
- 11 f. On page 15, line 11, strike "appropriation amounts"
- 12 and insert "appropriations";
- 13 g. On page 18, line 23, strike "Payment" and insert
- 14 "Radioactive Waste Settlement";

- 15 h. On page 35, lines 22 and 25, strike "Nebraska";  
16 i. On page 36, line 13 strike "\$13,688 Cash Funds for  
17 FY2006-07" and insert "for FY2006-07 \$13,688 Cash Funds";  
18 j. On page 50, lines 7 and 9, before "Health" insert  
19 "Nebraska"; in line 9 strike "Service" and insert "Services"; and  
20 in line 14 after "Committee" insert "of the Legislature";  
21 k. On page 58, line 9, strike "FUNDS" and insert "FUND";  
22 l. On page 59, strike beginning with the first  
23 "\$5,000,000" in line 13 through "FY2006-07" in line 14 and insert  
24 "for FY2005-06 \$5,000,000 Cash Funds and for FY2006-07 \$5,000,000  
1 Cash Funds";  
2 m. On page 60, lines 2 and 5, after the first "Funds"  
3 insert "and"; in line 8 strike beginning with "\$875,000" through  
4 "FY2006-07" and insert "for FY2005-06 \$875,000 General Funds and  
5 for FY2006-07 \$875,000 General Funds"; in line 14 strike "U.S." and  
6 insert "United States"; and in line 15 strike "Service" and insert  
7 "Services";  
8 n. On page 70, lines 2 and 6; and page 74, lines 1 and  
9 4, strike "est." and insert "estimate";  
10 o. On page 71, line 10, after "for" insert "state";  
11 p. On page 73, line 27, strike "his" and insert "this";  
12 q. On page 82, line 25, after "Fund" insert  
13 "appropriation";  
14 r. On page 98, line 17, strike "STATE BOARD OF  
15 AGRICULTURE" and insert "NEBRASKA STATE FAIR BOARD";  
16 s. On page 100, line 1; page 162, line 4; and page 165,  
17 line 14, strike the last comma;  
18 t. On page 105, line 23, after "Byrne" insert "Act";  
19 u. On page 111, line 7, after "(1)" insert "of this  
20 section"; in line 8 after "(2)" insert "of this section"; and in  
21 line 20 strike "Building Renewal Task Force" and insert "Task Force  
22 for Building Renewal";  
23 v. On page 117, line 20, strike "State";  
24 w. On page 122, lines 23 and 26; and page 134, lines 20  
25 and 23, strike "Funds," and insert "Funds";  
26 x. On page 122, lines 23 and 26, strike "\$42,049" and  
27 insert "\$42,029";  
1 y. On page 133, line 5, before "and" insert "\$1,250,000  
2 General Funds"; in line 7 strike "corrections" and insert  
3 "correctional"; in line 10 after "the" insert "Nebraska"; and in  
4 line 17 strike "is not" and insert "not be";  
5 z. On page 137, line 10, after "Water" insert  
6 "Facilities";  
7 aa. On page 138, line 9, after "Committee" insert "of  
8 the Legislature";  
9 bb. On page 139, line 19, strike "Administration" and  
10 insert "Act";  
11 cc. On page 148, line 26, strike "State Board of  
12 Agriculture" and insert "Nebraska State Fair Board";

- 13 dd. On page 151, line 8, after the last comma insert
- 14 "Nebraska";
- 15 ee. On page 152, lines 2 and 3, strike "Employee" and
- 16 insert "Employees";
- 17 ff. On page 161, line 18; and page 165, line 2, before
- 18 "Insurance" insert "Department of";
- 19 gg. On page 162, line 9, strike the semicolon and insert
- 20 a period; and in line 12 strike the period and insert a semicolon;
- 21 hh. On page 162, line 19; and page 166, line 2, strike
- 22 "Motor Carrier Division" and insert "Division of Motor Carrier
- 23 Services";
- 24 ii. On page 165, line 19, strike the semicolon and
- 25 insert a period; and in line 22 strike the period and insert a
- 26 semicolon; and
- 27 jj. On page 168, line 15, after "devise" insert a comma.
- 1 2. On page 1, line 3, strike the semicolon.

**LEGISLATIVE BILL 426.** Placed on Select File as amended.  
 E & R amendment to LB 426:  
 AM7097

- 1 1. In the Standing Committee amendments, AM1282:
- 2 a. On page 2, line 20, after the second "the" insert
- 3 "state"; and
- 4 b. On page 3, line 15, after "Revenue" insert "under
- 5 section 5 of this act"; and in line 16 strike "deposit" and insert
- 6 "credit" and strike "in" and insert "to".
- 7 2. On page 1, strike beginning with "and" in line 1
- 8 through "create" in line 4 and insert ", 72-816, 85-302, and
- 9 85-316, Reissue Revised Statutes of Nebraska, and sections 71-7611
- 10 and 81-1561, Revised Statutes Supplement, 2004; to create funds and
- 11 provide powers and duties relating to capital construction,
- 12 low-level radioactive waste compact litigation, environmental
- 13 remediation, the Nebraska State Fair, and the Ferguson House as
- 14 prescribed; to add and change provisions relating to state college
- 15 audits and contingency".

**LEGISLATIVE BILL 427.** Placed on Select File as amended.  
 E & R amendment to LB 427:  
 AM7096

- 1 1. On page 1, strike beginning with "transfer" in line 2
- 2 through "completed" in line 3 and insert "provide for, change, and
- 3 eliminate completed fund".

**LEGISLATIVE BILL 614.** Placed on Select File as amended.  
 E & R amendment to LB 614:  
 AM7095

- 1 1. On page 1, line 3, strike "to appropriate funds;".

**LEGISLATIVE BILL 683A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

**NOTICE OF COMMITTEE HEARING**  
**General Affairs**  
Room 1510

Tuesday, May 17, 2005

9:30 a.m.

Robert E. Logsdon - Nebraska Liquor Control Commission

(Signed) Ray Janssen, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 748.** Senator Chambers offered the following motion:

Reconsider the vote to recommit LB 748 to committee.

Pending.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 108.** Introduced by Kremer, 34; Fischer, 43.

**PURPOSE:** The purpose of this interim study is to review issues associated with implementation of a national animal identification program. The study shall specifically seek to quantify resource needs for the Department of Agriculture to carry out state components of a uniform national animal identification program, examine issues of confidentiality and security of information provided by producers and other portions of the livestock industry, and identify costs to producers, markets, and other segments of the livestock industry.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**AMENDMENTS - Print in Journal**

Senator Bourne filed the following amendment to LB 748:  
AM1492

(Amendments to Standing Committee amendments, AM0435)

1. 1. Strike amendment 2 and insert the following new

2 amendment:

3 "2. On page 6, strike beginning with 'and' in line 13  
4 through the period in line 16 and insert 'may be a competitive  
5 natural gas provider by obtaining certification in accordance with  
6 sections 66-1848 and 66-1849. Any metropolitan utilities district  
7 may take title to natural gas and sell it for consumption only to a  
8 political subdivision by obtaining certification in accordance with  
9 sections 66-1848 and 66-1849.'."

Senator Bourne filed the following amendment to LB 748:  
AM1491

(Amendments to Standing Committee amendments, AM0435)

- 1 1. Insert the following new amendments:
- 2 "2. On page 4, line 1, after 'subdivision' insert 'or an  
3 end user whose natural gas requirements equal or exceed five  
4 hundred therms per day as determined by average daily consumption'."
- 5 3. On page 5, after line 3, insert the following new  
6 subdivision:  
7 '(d) Whenever a city has acquired a natural gas system  
8 pursuant to this section, the city shall comply with the terms and  
9 conditions of a natural gas transportation agreement executed on or  
10 before January 1, 2005, between a jurisdictional utility and an end  
11 user whose natural gas requirements equal or exceed five hundred  
12 therms per day as determined by average daily consumption.'."
- 13 2. On page 2, line 7, strike "and"; and in line 14  
14 before the period insert "; and after line 24 insert the following  
15 new subsection:  
16 '(3) Whenever a metropolitan utilities district has  
17 acquired an existing utility's system pursuant to this section, the  
18 metropolitan utilities district shall comply with the terms and  
19 conditions of a natural gas transportation agreement executed on or  
20 before January 1, 2005, between a jurisdictional utility and an end  
21 user whose natural gas requirements equal or exceed five hundred  
22 therms per day as determined by average daily consumption.'."
- 23 3. Renumber the remaining amendments accordingly.

Senator Beutler filed the following amendment to LB 748:  
FA235

On page 4, line 23 change "without" to "with"

On page 5, line 16 change "without" to "with"

### **MOTION - Print in Journal**

Senator Landis filed the following motion to LB 748:  
Indefinitely postpone LB 748.

### **GENERAL FILE**

**LEGISLATIVE BILL 312.** Title read. Considered.

The Standing Committee amendment, AM1350, printed separately and referred to on page 1361, was considered.

Senator Landis requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is as follows:

(FA236 consists of Sections 3, 4, 5, 6, 12, 16, and 19 through 55 of the Standing Committee amendment.)

Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA242

Amend AM1350

Strike section 3.

Senator Landis offered the following motion:

Bracket LB 312 until January 1, 2006.

**SENATOR CUDABACK PRESIDING**

**SENATOR JANSSEN PRESIDING**

Pending.

## **RESOLUTION**

**LEGISLATIVE RESOLUTION 109.** Introduced by Howard, 9; Kruse, 13; Landis, 46; Raikes, 25.

**PURPOSE:** The purpose of this study is to determine the feasibility of a policy to prohibit bullying behavior in public schools. The study will include, but not be limited to:

1. Examination of the definition of bullying behavior;
2. Examination of the manner in which bullying issues are currently addressed in schools;
3. Examination of the potential improvements in academic outcomes for children as a result of an anti-bullying policy;
4. Examination of existing models of anti-bullying policies in school settings; and
5. Consideration of the fiscal impact associated with implementing anti-bullying policies in school settings.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **AMENDMENT - Print in Journal**

Senator Howard filed the following amendment to LB 500:  
AM1490

- 1 1. On page 4, line 26, after "facilities" insert "that  
2 are provided free to the public".
- 3 2. On page 5, line 4, after "project" insert ".  
4 Development project costs does not include the development,  
5 construction, or operation of any type of parking facility that  
6 requires the public to pay a fee".
- 7 3. On page 19, line 8; and page 24, line 11, after the  
8 period insert "The contracting public body may not pledge any  
9 portion of the financial assistance received under this section for  
10 the construction, development, or operation of a parking facility  
11 that requires the public to pay any type of fee for its use.".

### **GENERAL FILE**

**LEGISLATIVE BILL 312.** The Landis pending motion, found in this day's Journal, to bracket until January 1, 2006, was renewed.

### **SENATOR CUDABACK PRESIDING**

Senator Friend moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 2 nays, and 22 not voting.

The Landis motion to bracket failed with 5 ayes, 32 nays, 6 present and not voting, and 6 excused and not voting.

Senator Landis offered the following motion:  
Recommit LB 312 to the Revenue Committee.

Senator Landis withdrew his motion to recommit to committee.

Senator Chambers withdrew his pending amendment, FA242, found in this day's Journal.

The first Standing Committee amendment, FA236, found in this day's Journal, was renewed.

Pending.

**AMENDMENTS - Print in Journal**

Senator Schimek filed the following amendment to LB 425:  
AM1495

(Amendments to Standing Committee amendments, AM0521)

1 PURPOSE: Appropriate \$33,000 General Funds to the Legislative

2 Council for publishing the Nebraska Blue Book.

3 AMENDMENT:

4 1. On page 3, line 19, strike "2,865,329" and insert

5 "2,898,329"; and in line 21 strike "2,913,783" and insert

6 "2,946,783".

Senator Beutler filed the following amendment to LB 312:  
FA255

On page 66, line 10 after the first "for" add "political"

Senator Beutler filed the following amendment to LB 312:  
FA256

On page 65, line 4 change "sixty" to "seventy five"

Senator Beutler filed the following amendment to LB 312:  
FA257

On page 64, line 18 change "seventy five" to "eighty five"

Senator Chambers filed the following amendments to LB 312:  
FA258

Amend AM1350

Add a new section: "No business firm which receives any incentives or benefits pursuant to this act shall discriminate against any person on the basis of sexual orientation."

FA240

Amend AM1350

Strike section 1.

FA241

Amend AM1350

Strike section 2.

FA243

Amend AM1350

Strike section 4.

FA244

Amend AM1350

Strike section 5.

FA245

Amend AM1350

Strike section 6.

FA246

Amend AM1350

Strike section 7.

FA247

Amend AM1350

Strike section 8.

FA248

Amend AM1350

Strike section 9.

FA249

Amend AM1350

Strike section 10.

FA250

Amend AM1350

Strike section 11.

FA251

Amend AM1350

Strike section 12.

FA252

Amend AM1350

Strike section 13.

FA253

Amend AM1350

Strike section 14.

FA254

Amend AM1350

Strike section 15.

## GENERAL FILE

**LEGISLATIVE BILL 312.** The first Standing Committee amendment, FA236, found in this day's Journal, was renewed.

The first Standing Committee amendment was adopted with 38 ayes, 0 nays, 4 present and not voting, and 7 excused and not voting.

The second Standing Committee amendment is as follows:

FA237

23 Sec. 7. Section 77-2701, Revised Statutes Supplement,

24 2004, is amended to read:

25 77-2701. Sections 77-2701 to 77-27,135.01 and 77-27,222  
26 and sections 1, 2, and 9 to 11 of this act shall be known and may  
27 be cited as the Nebraska Revenue Act of 1967.

1 Sec. 8. Section 77-2701.04, Revised Statutes Supplement,  
2 2004, is amended to read:

3 77-2701.04. For purposes of sections 77-2701.04 to  
4 77-2713 and sections 9 to 11 of this act, unless the context  
5 otherwise requires, the definitions found in sections 77-2701.05 to  
6 77-2701.45 and sections 9 and 10 of this act shall be used.

7 Sec. 9. Manufacturing means an action or series of  
8 actions performed upon tangible personal property, either by hand  
9 or machine, which results in that tangible personal property being  
10 reduced or transformed into a different state, quality, form,  
11 property, or thing.

12 Sec. 10. (1) Manufacturing machinery and equipment means  
13 any machinery or equipment purchased, leased, or rented by a person  
14 engaged in the business of manufacturing for use in manufacturing,  
15 including, but not limited to:

16 (a) Machinery or equipment for use in manufacturing to  
17 produce, fabricate, assemble, process, finish, refine, or package  
18 tangible personal property;

19 (b) Machinery or equipment for use in transporting,  
20 conveying, handling, or storing the raw materials or components to  
21 be used in manufacturing or the products produced by manufacturing;

22 (c) Molds and dies for use in manufacturing that  
23 determine the physical characteristics of the finished product or  
24 its packaging material;

25 (d) Machinery or equipment for use in manufacturing to  
26 maintain the integrity of the product or to maintain unique  
27 environmental conditions required for either the product or the  
1 machinery and equipment used in manufacturing by a manufacturer;

2 (e) Testing equipment for use in manufacturing to measure  
3 the quality of the finished product;

4 (f) Computers, software, and related peripheral equipment  
5 for use in manufacturing to guide, control, operate, or measure the  
6 manufacturing process;

7 (g) Machinery or equipment for use in manufacturing to  
8 produce steam, electricity, or chemical catalysts and solutions  
9 that are essential to the manufacturing process even if such  
10 produced items are consumed during the course of the manufacturing  
11 process or do not become necessary or integral parts of the  
12 finished product; and

13 (h) A repair or replacement part or accessory purchased  
14 for use in maintaining, repairing, or refurbishing machinery and  
15 equipment used in manufacturing.

16 (2) Manufacturing machinery and equipment does not  
17 include: Motor vehicles required to be registered for operation on  
18 the roads and highways of this state; hand tools; office equipment;

19 and computers, software, and related peripheral equipment not used  
 20 in guiding, controlling, operating, or measuring of the  
 21 manufacturing process. Machinery or equipment does not need to  
 22 come into direct physical contact with any of the raw materials,  
 23 components, or products that are part of the manufacturing process  
 24 to be considered manufacturing machinery or equipment.  
 25 Sec. 11. (1) Sales and use taxes shall not be imposed on  
 26 the gross receipts from the sale, lease, or rental and on the  
 27 storage, use, or other consumption in this state of manufacturing  
 1 machinery and equipment.  
 2 (2) Sales and use taxes shall not be imposed on the gross  
 3 receipts from the sale of installation, repair, and maintenance  
 4 services performed on or with respect to manufacturing machinery  
 5 and equipment.

The second Standing Committee amendment was adopted with 32 ayes, 1 nay, 9 present and not voting, and 7 excused and not voting.

The third Standing Committee amendment is as follows:  
 FA238

6 Sec. 17. Section 77-27,188, Reissue Revised Statutes of  
 7 Nebraska, is amended to read:  
 8 77-27,188. (1) A refundable credit against the taxes  
 9 imposed by the Nebraska Revenue Act of 1967 shall be allowed to any  
 10 taxpayer who has an approved application under the Employment  
 11 Expansion and Investment Incentive Act, who is engaged in a  
 12 qualifying business as described in section 77-27,189, and who  
 13 after January 1, ~~2004~~ 2006:  
 14 ~~(a)~~ (a)(i) Increases ~~the employment and investment of~~  
 15 ~~such business~~ by two new equivalent Nebraska employees and makes an  
 16 increased investment of at least one hundred twenty-five thousand  
 17 dollars prior to the end of the first taxable year after the year  
 18 in which the application was submitted in any county in this state  
 19 with a population of less than ~~twenty-five~~ fifteen thousand  
 20 inhabitants, according to the most recent federal decennial census,  
 21 or in any designated enterprise zone pursuant to 42 U.S.C. 11501 or  
 22 the Enterprise Zone Act; or  
 23 ~~(b)~~ (ii) Increases employment by five new equivalent  
 24 Nebraska employees and ~~who~~ makes an increased investment in this  
 25 state of at least two hundred fifty thousand dollars prior to the  
 26 end of the first taxable year after the year in which the  
 27 application was submitted in any county in this state with a  
 1 population of less than twenty-five thousand inhabitants, according  
 2 to the most recent federal decennial census; and  
 3 (e) (b) Pays a minimum qualifying wage of eight dollars  
 4 and twenty-five cents per hour to the new equivalent Nebraska  
 5 employees for which tax credits are sought under the Employment  
 6 Expansion and Investment Incentive Act. The Department of Revenue  
 7 shall adjust the minimum qualifying wages required for applications

8 filed after January 1, 2004, and each January 1 thereafter, as  
9 follows: The current rural Nebraska average weekly wage shall be  
10 divided by the rural Nebraska average weekly wage for 2003; and the  
11 result shall be multiplied by the eight dollars and twenty-five  
12 cents minimum qualifying wage for 2003 and rounded to the nearest  
13 one cent. The amount of increase or decrease in the minimum  
14 qualifying wages for any year shall be the cumulative change in the  
15 rural Nebraska average weekly wage since 2003. For purposes of  
16 this subsection, rural Nebraska average weekly wage means the most  
17 recent average weekly wage paid by all employers in all counties  
18 with a population of less than twenty-five thousand inhabitants as  
19 reported by October 1 by the Department of Labor.

20 (c) For purposes of this section, a teleworker working in  
21 Nebraska from his or her residence for a taxpayer shall be  
22 considered an employee of the taxpayer, and property of the  
23 taxpayer provided to the teleworker working in Nebraska from his or  
24 her residence shall be considered an investment. Teleworker  
25 includes an individual working on a per item basis and an  
26 independent contractor working for the taxpayer so long as the  
27 taxpayer withholds Nebraska income tax from wages or other payments  
1 made to such teleworker. For purposes of calculating the number of  
2 new equivalent Nebraska employees when the teleworkers are paid on  
3 a per item basis or are independent contractors, the total wages or  
4 payments made to all such new employees during the year shall be  
5 divided by the qualifying wage as determined in subdivision (b) of  
6 this subsection, with the result divided by two thousand eighty  
7 hours.

8 (2) The amount of the credit shall be three thousand  
9 dollars for each new equivalent Nebraska employee and two thousand  
10 seven hundred fifty dollars for each fifty thousand dollars of  
11 increased investment.

12 (3) An employee of a qualified employee leasing company  
13 shall be considered to be an employee of the client-lessee for  
14 purposes of this section if the employee performs services for the  
15 client-lessee. A qualified employee leasing company shall provide  
16 the Department of Revenue access to the records of employees leased  
17 to the client-lessee.

18 (4) The credit shall not exceed the amounts set out in  
19 the application and approved by the Tax Commissioner.

20 (5)(a) If a taxpayer who receives tax credits creates  
21 fewer jobs or less investment than approved in the project  
22 agreement, the taxpayer shall repay the tax credits as provided in  
23 this subsection.

24 (b) If less than seventy-five percent of the proposed  
25 jobs in the project agreement are created, one hundred percent of  
26 the job creation tax credits shall be repaid. If seventy-five  
27 percent or more of the proposed jobs in the project agreement are  
1 created, no repayment of the job creation tax credits is necessary.

2 (c) If less than seventy-five percent of the proposed

3 investment in the project agreement is created, one hundred percent  
4 of the investment tax credits shall be repaid. If seventy-five  
5 percent or more of the proposed investment in the project agreement  
6 is created, no repayment of the investment tax credits is  
7 necessary.

8 (6) For taxpayers who submitted applications for benefits  
9 under the Employment Expansion and Investment Incentive Act before  
10 January 1, 2006, subsection (1) of this section, as such subsection  
11 existed immediately prior to such date, shall continue to apply to  
12 such taxpayers. The changes made by this legislative bill shall  
13 not preclude a taxpayer from receiving the tax incentives earned  
14 prior to January 1, 2006.

15 Sec. 18. Section 77-27,195, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 77-27,195. (1) The Tax Commissioner shall prepare a  
18 report identifying the amount of investment in this state and the  
19 number of equivalent jobs created by each taxpayer claiming a  
20 credit pursuant to the Employment Expansion and Investment  
21 Incentive Act. The report shall include the amount of credits  
22 claimed in the aggregate. The report shall be issued on or before  
23 March 15 of each year beginning with March 15, 1988, for all  
24 credits allowed during the previous calendar year.  
25 (2) Beginning with applications filed on or after January  
26 1, 2006, the report shall provide information on project-specific  
27 total incentives used every two years for each approved project and  
1 shall disclose (a) the identity of the taxpayer, (b) the location  
2 of the project, and (c) the total credits used and refunds approved  
3 during the immediately preceding two years expressed as a single,  
4 aggregated total. The incentive information required to be  
5 reported under this subsection shall not be reported for the first  
6 year the taxpayer attains the required employment and investment  
7 thresholds. The information on first-year incentives used shall be  
8 combined with and reported as part of the second year. Thereafter,  
9 the information on incentives used for succeeding years shall be  
10 reported for each project every two years containing information on  
11 two years of credits used and refunds approved. The incentives  
12 used shall include incentives which have been approved by the  
13 Department of Revenue, but not necessarily received, during the  
14 previous two calendar years.

The third Standing Committee amendment was adopted with 35 ayes, 0  
nays, 7 present and not voting, and 7 excused and not voting.

The fourth Standing Committee amendment is as follows:  
FA239

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. (1) Any business firm which makes
- 4 expenditures in research and experimental activities as defined in

5 section 174 of the Internal Revenue Code of 1986, as amended, in  
6 this state shall be allowed a research tax credit as provided in  
7 this section. The credit amount shall equal three percent of the  
8 amount expended in research and experimental activities by the  
9 business firm in the tax year in this state in excess of the base  
10 amount. The base amount is the average amount expended in research  
11 and experimental activities by the business firm in this state in  
12 the two tax years immediately preceding the first tax year that the  
13 credit is claimed. The credit shall be allowed for the first year  
14 it is claimed and for the four tax years immediately following.

15 (2) The amount expended in research and experimental  
16 activities in this state in any tax year may be determined either  
17 by satisfactory proof of purchase or by apportioning the amount  
18 deducted on the federal return to the state based on the average of  
19 the property factor as determined in section 77-2734.12 and the  
20 payroll factor as determined in section 77-2734.13.

21 (3) The credit allowed under this section may be used to  
22 obtain a refund of state sales and use taxes paid, may be used  
23 against the income tax liability of the taxpayer, or may be used as  
24 a refundable credit claimed on an income tax return of the  
1 taxpayer. The return need not reflect any income tax liability  
2 owed by the taxpayer.

3 (4) A claim for the credit may be filed quarterly for  
4 refund of the state sales and use taxes paid, either directly or  
5 indirectly, after the filing of the income tax return for the tax  
6 year in which the credit was first allowed.

7 (5) The credit may be used to obtain a refund of state  
8 sales and use taxes paid before the end of the tax year for which  
9 the credit was allowed, except that the amount refunded under this  
10 subsection shall not exceed the amount of the state sales and use  
11 taxes paid, either directly or indirectly, by the taxpayer on the  
12 qualifying expenditures.

13 (6) For purposes of subsections (4) and (5) of this  
14 section, the taxpayer shall be deemed to have paid indirectly any  
15 state sales or use taxes paid by a contractor on building materials  
16 annexed to an improvement to real estate built for the taxpayer.  
17 The contractor shall certify to the taxpayer the amount of the  
18 state sales and use taxes paid on the building materials, or the  
19 taxpayer, with the permission of the Tax Commissioner and a  
20 certification from the contractor that state sales and use taxes  
21 were paid on all building materials, may presume that forty percent  
22 of the cost of the improvement was for building materials annexed  
23 to real estate on which the tax was paid.

24 (7) Credits distributed to a partner, limited liability  
25 company member, shareholder, or beneficiary may be used against the  
26 income tax liability of the partner, member, shareholder, or  
27 beneficiary receiving the credits.

1 (8) For purposes of this section, business firm means any  
2 business entity, including a corporation, a fiduciary, a sole

3 proprietorship, a partnership, a joint venture, a limited liability  
4 company, or another private entity that is subject to sales tax  
5 under section 77-2703. Business firm does not include a political  
6 subdivision or an organization that is exempt from income taxes  
7 under section 501(a) of the Internal Revenue Code of 1986, as  
8 amended.

9 (9) This section shall be operative for all tax years  
10 beginning or deemed to begin on or after January 1, 2006, under the  
11 Internal Revenue Code of 1986, as amended. No business firm shall  
12 be allowed to first claim the credit for any year beginning or  
13 deemed to begin on or after January 1, 2011, under the Internal  
14 Revenue Code of 1986, as amended.

15 Sec. 2. (1) The Small Business Microenterprise Tax  
16 Credit Program is created. The program shall be administered by  
17 the Department of Revenue. The purpose of the program is to  
18 provide investment tax credits to applicants for creating or  
19 expanding microbusinesses that contribute to the revitalization of  
20 economically depressed areas through the creation of new or  
21 improved income, self-employment, or other new jobs in the area.

22 (2) The department shall accept applications for  
23 investment tax credits from taxpayers who are actively engaged in  
24 the operation of a microbusiness in a depressed area or who will  
25 establish a microbusiness that they will actively operate in a  
26 depressed area within the current or subsequent tax year.

27 (3) The department may convene an advisory committee of  
1 individuals with expertise in small business development, lending,  
2 and community development to evaluate applications and advise the  
3 department in authorizing tentative investment tax credits.

4 (4) The application shall be on a form developed by the  
5 department and shall contain:

6 (a) A description of the microbusiness;

7 (b) Projected income and expenditures;

8 (c) The market to be served by the microbusiness and the  
9 way the expansion addresses the market;

10 (d) The amount of projected investment increase that  
11 would generate the credit;

12 (e) The projected improvement in income or creation of  
13 new self-employment or other jobs in the distressed area;

14 (f) The nature of the applicant's engagement in the  
15 operation of the microbusiness; and

16 (g) Other documents, plans, and specifications as  
17 required by the department;

18 (5)(a) If the department determines that an application  
19 meets the requirements of this section and that the investment is  
20 eligible for the credit and (i) the applicant is actively engaged  
21 in the operation of the microbusiness or will be actively engaged  
22 in the operation upon its establishment, (ii) the majority of the  
23 assets of the microbusiness are located in a depressed area or will  
24 be upon its establishment, (iii) the applicant will make new

25 investment in the microbusiness, and (iv) the new investment will  
26 create new income or jobs in the depressed area, the department  
27 shall approve the application and authorize tentative investment  
1 tax credits to the applicant within the limits set forth in this  
2 section and certify the amount of tentative investment tax credits  
3 approved for the applicant. Applications for investment tax  
4 credits shall be considered in the order in which they are  
5 received.

6 (b) The department may approve applications up to the  
7 adjusted limit for each calendar year beginning January 1, 2006,  
8 through December 31, 2010. After applications totaling the  
9 adjusted limit have been approved for a calendar year, no further  
10 applications shall be approved for that year. The adjusted limit  
11 in a given year is two million dollars plus tentative investment  
12 tax credits that were not granted by the end of the preceding year.  
13 Investment tax credits shall not be allowed for a taxpayer  
14 receiving benefits under the Employment and Investment Growth Act,  
15 the Employment Expansion and Investment Incentive Act, or the  
16 Nebraska Advantage Act.

17 (6) Taxpayers shall be entitled to refundable investment  
18 tax credits equal to twenty percent of the taxpayer's new  
19 investment in the microbusiness during the tax year not to exceed  
20 the amount of tentative investment tax credits approved by the  
21 department under subsection (5) of this section. The taxpayer  
22 shall claim the investment tax credit by filing a form developed by  
23 the Tax Commissioner and attaching the tentative investment tax  
24 credit certification granted by the department. Tentative  
25 investment tax credits expire after the end of the tax year  
26 following the year the tentative investment tax credit was  
27 certified. The total lifetime investment tax credits claimed by  
1 any one taxpayer under the program shall be limited to ten thousand  
2 dollars.

3 (7) For purposes of this section:

4 (a) Actively engaged in the operation of a microbusiness  
5 means personal involvement on a continuous basis in the daily  
6 management and operation of the business;

7 (b) Distressed area means a municipality that has had a  
8 population decrease between the two most recent federal decennial  
9 censuses, an unincorporated area within a county that has had a  
10 population decrease between the two most recent federal decennial  
11 censuses, a designated federal enterprise zone, and a census tract  
12 that based on the most recent federal decennial census data  
13 available has less than eighty percent of the statewide per capita  
14 income;

15 (c) Microbusiness means any business employing five or  
16 fewer employees;

17 (d) New investment means the increase in the applicant's  
18 purchases for real property, plant, equipment, or inventory over  
19 such purchases in the year prior to an application for an

20 investment tax credit, but not including interest costs. If such  
21 real property, plant, or equipment is leased, the amount of new  
22 investment shall be the increase in average net annual rent  
23 multiplied by the number of years of the lease for which the  
24 taxpayer is bound, not to exceed ten years; and  
25 (e) Taxpayer means any person subject to the income tax  
26 imposed by the Nebraska Revenue Act of 1967, any corporation,  
27 partnership, limited liability company, cooperative, including a  
1 cooperative exempt under section 521 of the Internal Revenue Code  
2 of 1986, as amended, or joint venture that is or would otherwise be  
3 a member of the same unitary group, if incorporated, which is, or  
4 whose partners, members, or owners representing an ownership  
5 interest of at least ninety percent of such entity are, subject to  
6 such tax, and any other partnership, limited liability company,  
7 subchapter S corporation, cooperative, or joint venture when the  
8 partners, shareholders, or members representing an ownership  
9 interest of at least ninety percent of such entity are subject to  
10 such tax.

1 Sec. 13. Section 77-2715.07, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3 77-2715.07. (1) There shall be allowed to qualified  
4 resident individuals as a nonrefundable credit against the income  
5 tax imposed by the Nebraska Revenue Act of 1967:

6 (a) A credit equal to the federal credit allowed under  
7 section 22 of the Internal Revenue Code; and

8 (b) A credit for taxes paid to another state as provided  
9 in section 77-2730.

10 (2) There shall be allowed to qualified resident  
11 individuals against the income tax imposed by the Nebraska Revenue  
12 Act of 1967:

13 (a) For returns filed reporting federal adjusted gross  
14 incomes of greater than twenty-nine thousand dollars, a  
15 nonrefundable credit equal to twenty-five percent of the federal  
16 credit allowed under section 21 of the Internal Revenue Code of  
17 1986, as amended;

18 (b) For returns filed reporting federal adjusted gross  
19 income of twenty-nine thousand dollars or less, a refundable credit  
20 equal to a percentage of the federal credit allowable under section  
21 21 of the Internal Revenue Code of 1986, as amended, whether or not  
22 the federal credit was limited by the federal tax liability. The  
23 percentage of the federal credit shall be one hundred percent for  
24 incomes not greater than twenty-two thousand dollars, and the  
25 percentage shall be reduced by ten percent for each one thousand  
26 dollars, or fraction thereof, by which the reported federal  
27 adjusted gross income exceeds twenty-two thousand dollars; ~~and~~

1 (c) A refundable credit for individuals who qualify for  
2 an income tax credit under the Beginning Farmer Tax Credit Act for  
3 all taxable years beginning or deemed to begin on or after January  
4 1, 2001, under the Internal Revenue Code of 1986, as amended; and

5 (d) A refundable credit for individuals who qualify for  
6 an income tax credit under section 1 or 2 of this act.

7 (3) There shall be allowed to all individuals as a  
8 nonrefundable credit against the income tax imposed by the Nebraska  
9 Revenue Act of 1967:

10 (a) A credit for personal exemptions allowed under  
11 section 77-2716.01; and

12 (b) A credit for contributions to certified community  
13 betterment programs as provided in the Community Development  
14 Assistance Act. Each partner, each shareholder of an electing  
15 subchapter S corporation, each beneficiary of an estate or trust,  
16 or each member of a limited liability company shall report his or  
17 her share of the credit in the same manner and proportion as he or  
18 she reports the partnership, subchapter S corporation, estate,  
19 trust, or limited liability company income.

20 (4) There shall be allowed as a credit against the income  
21 tax imposed by the Nebraska Revenue Act of 1967:

22 (a) A credit to all resident estates and trusts for taxes  
23 paid to another state as provided in section 77-2730; and

24 (b) A credit to all estates and trusts for contributions  
25 to certified community betterment programs as provided in the  
26 Community Development Assistance Act.

27 (5) There shall be allowed to all business firms as a  
1 credit against the income tax imposed by the Nebraska Revenue Act  
2 of 1967 a credit as provided in section 77-27,222.

3 Sec. 14. Section 77-2717, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 77-2717. (1)(a) The tax imposed on all resident estates  
6 and trusts shall be a percentage of the federal taxable income of  
7 such estates and trusts as modified in section 77-2716, plus a  
8 percentage of the federal alternative minimum tax and the federal  
9 tax on premature or lump-sum distributions from qualified  
10 retirement plans. The additional taxes shall be recomputed by (i)  
11 substituting Nebraska taxable income for federal taxable income,  
12 (ii) calculating what the federal alternative minimum tax would be  
13 on Nebraska taxable income and adjusting such calculations for any  
14 items which are reflected differently in the determination of  
15 federal taxable income, and (iii) applying Nebraska rates to the  
16 result. The federal credit for prior year minimum tax, after the  
17 recomputations required by the Nebraska Revenue Act of 1967, and  
18 the ~~credit~~ credits provided in section 77-27,222 and sections 1 and  
19 2 of this act shall be allowed as a reduction in the income tax  
20 due. A refundable income tax credit shall be allowed for all  
21 resident estates and trusts under sections 1 and 2 of this act.

22 (b) The tax imposed on all nonresident estates and trusts  
23 shall be the portion of the tax imposed on resident estates and  
24 trusts which is attributable to the income derived from sources  
25 within this state. The tax which is attributable to income derived  
26 from sources within this state shall be determined by multiplying

27 the liability to this state for a resident estate or trust with the  
1 same total income by a fraction, the numerator of which is the  
2 nonresident estate's or trust's Nebraska income as determined by  
3 sections 77-2724 and 77-2725 and the denominator of which is its  
4 total federal income after first adjusting each by the amounts  
5 provided in section 77-2716.

6 (2) In all instances wherein a fiduciary income tax  
7 return is required under the provisions of the Internal Revenue  
8 Code, a Nebraska fiduciary return shall be filed, except that a  
9 fiduciary return shall not be required to be filed regarding a  
10 simple trust if all of the trust's beneficiaries are residents of  
11 the State of Nebraska, all of the trust's income is derived from  
12 sources in this state, and the trust has no federal tax liability.  
13 The fiduciary shall be responsible for making the return for the  
14 estate or trust for which he or she acts, whether the income be  
15 taxable to the estate or trust or to the beneficiaries thereof.  
16 The fiduciary shall include in the return a statement of each  
17 beneficiary's distributive share of net income when such income is  
18 taxable to such beneficiaries.

19 (3) The beneficiaries of such estate or trust who are  
20 residents of this state shall include in their income their  
21 proportionate share of such estate's or trust's federal income and  
22 shall reduce their Nebraska tax liability by their proportionate  
23 share of the credit as provided in section 77-27,222. There shall  
24 be allowed to a beneficiary a refundable income tax credit under  
25 the Beginning Farmer Tax Credit Act for all taxable years beginning  
26 or deemed to begin on or after January 1, 2001, under the Internal  
27 Revenue Code of 1986, as amended.

1 (4) If any beneficiary of such estate or trust is a  
2 nonresident during any part of the estate's or trust's taxable  
3 year, he or she shall file a Nebraska income tax return which shall  
4 include (a) in Nebraska adjusted gross income that portion of the  
5 estate's or trust's Nebraska income, as determined under sections  
6 77-2724 and 77-2725, allocable to his or her interest in the estate  
7 or trust and (b) a reduction of the Nebraska tax liability by his  
8 or her proportionate share of the credit as provided in section  
9 77-27,222 and shall execute and forward to the fiduciary, on or  
10 before the original due date of the Nebraska fiduciary return, an  
11 agreement which states that he or she will file a Nebraska income  
12 tax return and pay income tax on all income derived from or  
13 connected with sources in this state, and such agreement shall be  
14 attached to the Nebraska fiduciary return for such taxable year.

15 (5) In the absence of the nonresident beneficiary's  
16 executed agreement being attached to the Nebraska fiduciary return,  
17 the estate or trust shall remit a portion of such beneficiary's  
18 income which was derived from or attributable to Nebraska sources  
19 with its Nebraska return for the taxable year. The amount of  
20 remittance, in such instance, shall be the highest individual  
21 income tax rate determined under section 77-2715.02 multiplied by

22 the nonresident beneficiary's share of the estate or trust income  
23 which was derived from or attributable to sources within this  
24 state. The amount remitted shall be allowed as a credit against  
25 the Nebraska income tax liability of the beneficiary.

26 (6) The Tax Commissioner may allow a nonresident  
27 beneficiary to not file a Nebraska income tax return if the  
1 nonresident beneficiary's only source of Nebraska income was his or  
2 her share of the estate's or trust's income which was derived from  
3 or attributable to sources within this state, the nonresident did  
4 not file an agreement to file a Nebraska income tax return, and the  
5 estate or trust has remitted the amount required by subsection (5)  
6 of this section on behalf of such nonresident beneficiary. The  
7 amount remitted shall be retained in satisfaction of the Nebraska  
8 income tax liability of the nonresident beneficiary.

9 (7) For purposes of this section, unless the context  
10 otherwise requires, simple trust shall mean any trust instrument  
11 which (a) requires that all income shall be distributed currently  
12 to the beneficiaries, (b) does not allow amounts to be paid,  
13 permanently set aside, or used in the tax year for charitable  
14 purposes, and (c) does not distribute amounts allocated in the  
15 corpus of the trust. Any trust which does not qualify as a simple  
16 trust shall be deemed a complex trust.

17 Sec. 15. Section 77-2734.03, Revised Statutes  
18 Supplement, 2004, is amended to read:

19 77-2734.03. (1)(a) For taxable years commencing prior to  
20 January 1, 1997, any (i) insurer paying a tax on premiums and  
21 assessments pursuant to section 77-908 or 81-523, (ii) electric  
22 cooperative organized under the Joint Public Power Authority Act,  
23 or (iii) credit union shall be credited, in the computation of the  
24 tax due under the Nebraska Revenue Act of 1967, with the amount  
25 paid during the taxable year as taxes on such premiums and  
26 assessments and taxes in lieu of intangible tax.

27 (b) For taxable years commencing on or after January 1,  
1 1997, any insurer paying a tax on premiums and assessments pursuant  
2 to section 77-908 or 81-523, any electric cooperative organized  
3 under the Joint Public Power Authority Act, or any credit union  
4 shall be credited, in the computation of the tax due under the  
5 Nebraska Revenue Act of 1967, with the amount paid during the  
6 taxable year as (i) taxes on such premiums and assessments included  
7 as Nebraska premiums and assessments under section 77-2734.05 and  
8 (ii) taxes in lieu of intangible tax.

9 (c) For taxable years commencing or deemed to commence  
10 prior to, on, or after January 1, 1998, any insurer paying a tax on  
11 premiums and assessments pursuant to section 77-908 or 81-523 shall  
12 be credited, in the computation of the tax due under the Nebraska  
13 Revenue Act of 1967, with the amount paid during the taxable year  
14 as assessments allowed as an offset against premium and related  
15 retaliatory tax liability pursuant to section 44-4233.

16 (2) There shall be allowed to corporate taxpayers a tax

17 credit for contributions to community betterment programs as  
18 provided in the Community Development Assistance Act.

19 (3) There shall be allowed to corporate taxpayers a  
20 refundable income tax credit under the Beginning Farmer Tax Credit  
21 Act for all taxable years beginning or deemed to begin on or after  
22 January 1, 2001, under the Internal Revenue Code of 1986, as  
23 amended.

24 (4) There shall be allowed to corporate taxpayers a tax  
25 credit as provided in section 77-27,222.

26 (5) The changes made to this section by Laws 2004, LB  
27 983, apply to motor fuels purchased during any tax year ending or  
1 deemed to end on or after January 1, 2005, under the Internal  
2 Revenue Code of 1986, as amended.

3 (6) There shall be allowed to corporate taxpayers  
4 refundable income tax credits under sections 1 and 2 of this act.

The fourth Standing Committee amendment was adopted with 41 ayes, 0  
nays, 3 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 39 ayes, 1 nay, 4 present and not voting,  
and 5 excused and not voting.

### VISITORS

Visitors to the Chamber were 48 fourth-grade students and teacher from  
Conestoga Elementary School, Murray; 60 ninth-grade students and teachers  
from Lincoln East High School and Wilcox Hildreth High School; former  
Senator Jerry Schmitt from Ord; 17 sixth-grade students and teacher from  
North Loup-Scotia Elementary School, North Loup; Senator Price's cousin,  
Carroll G. French, from Page; and 16 members and troop leaders of  
Brownie Troop 362 from Sheridan Elementary School, Lincoln.

### ADJOURNMENT

At 8:18 p.m., on a motion by Senator Wehrbein, the Legislature adjourned  
until 9:00 a.m., Tuesday, May 10, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**SEVENTY-SIXTH DAY - MAY 10, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SEVENTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, May 10, 2005

**PRAYER**

The prayer was offered by Pastor Paul Witt, St. Mary's Catholic Church, Lincoln.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Byars who was excused; and Senators Hudkins, Jensen, and Mines who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-fifth day was approved.

**GENERAL FILE**

**LEGISLATIVE BILL 614A.** Title read. Considered.

Advanced to E & R for review with 30 ayes, 3 nays, 13 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 90.** Title read. Considered.

The Standing Committee amendment, AM0249, found on page 441, was considered.

Senator Wehrbein renewed the Wehrbein et al. pending amendment, AM1346, printed separately and referred to on page 1360, to the Standing Committee amendment.

Senator Chambers requested a division of the question on the Wehrbein et al. amendment.

The Chair sustained the division of the question.

The first Wehrbein et al. amendment, to the Standing Committee amendment, is as follows:

(FA259 consists of Sections 4 through 22 of the Wehrbein et al. amendment.)

The first Wehrbein et al. amendment was adopted with 30 ayes, 1 nay, 15 present and not voting, and 3 excused and not voting.

The second Wehrbein et al. amendment, to the Standing Committee amendment, is as follows:

FA260

(Amendments to Standing Committee amendments, AM0249)

- 1 1. Strike the original amendments and insert the
- 2 following new amendment:
- 3 "1. Strike the original sections and insert the
- 4 following new sections:
- 5 'Section 1. Sections 1 to 3 of this act shall be known
- 6 and may be cited as the Building Entrepreneurial Communities Act.
- 7 Sec. 2. The purpose of the Building Entrepreneurial
- 8 Communities Act is to support economically depressed rural areas of
- 9 Nebraska in building entrepreneurial communities through grants
- 10 that will create community capacity to build and sustain programs
- 11 to generate and retain wealth in the community and region.
- 12 Specifically, the act will:
- 13 (1) Provide education and technical assistance to
- 14 energize small business development and entrepreneurship;
- 15 (2) Provide technical assistance to facilitate small
- 16 business transfer;
- 17 (3) Build community business capacity and leadership
- 18 programs;
- 19 (4) Generate opportunities that will attract and retain
- 20 young people and families;
- 21 (5) Provide education about philanthropy and
- 22 intergenerational transfer of wealth; and
- 23 (6) Build community endowments to support these
- 1 activities.
- 2 Sec. 3. (1) The Department of Economic Development, with
- 3 assistance provided by the Rural Development Commission, shall
- 4 establish and administer a grant process to provide grants to two
- 5 or more municipalities or counties that are collaborating on a
- 6 project related to the purpose of the Building Entrepreneurial
- 7 Communities Act with priority given to projects that best alleviate
- 8 chronic economic distress. At least one of the collaborating
- 9 municipalities or counties shall have chronic economic distress as
- 10 indicated by:
- 11 (a) An unemployment rate which exceeds the statewide
- 12 average unemployment rate;
- 13 (b) A per capita income below the statewide average per

- 14 capita income; or  
15 (c) Severe historical population loss, which means a  
16 population loss of ten percent or more over a twenty-year period of  
17 time.  
18 (2) Grants shall not exceed seventy-five thousand dollars  
19 per collaborative project. Grant recipients shall have two years  
20 to expend the grant funds. No municipality or county shall receive  
21 funding for more than one project. Grant recipients shall provide  
22 a dollar-for-dollar match in money or in-kind contributions for  
23 grant funds. Grants shall be awarded directly to one of the  
24 municipalities or counties representing the collaborative project.  
25 The department shall act as the fiduciary agent for the grants.

The second Wehrbein et al. amendment was adopted with 32 ayes, 1 nay, 13 present and not voting, and 3 excused and not voting.

Senator Beutler offered the following amendment to the Standing Committee amendment:

FA261

Amend AM1346

Add the following provision: Sections 1 through 15 of this act shall terminate on January 1, 2011.

The Beutler amendment was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA263

Amend AM0249

On page 2, in line 22 strike "or in-kind contributions".

The Chambers amendment was adopted with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Senator Schrock withdrew his pending amendment, AM1459, found on page 1384.

Advanced to E & R for review with 36 ayes, 1 nay, 9 present and not voting, and 3 excused and not voting.

## NOTICE OF COMMITTEE HEARING

### Executive Board

Room 1524

(Signed) L. Patrick Engel, Chairperson

**AMENDMENT - Print in Journal**

Senator Beutler filed the following amendment to LB 90:  
FA262

Amend AM1346

Strike beginning with "Grant" in line 23 of page 6 through line 26.

Strike lines 15 and 16 on page 5 and renumber accordingly.

On line 9, page 4 after "any" add: "agricultural or agricultural product value added"

On line 23, page 5 after "Act" add: "for projects".

**VISITORS**

Visitors to the Chamber were 44 fourth-grade students and teachers from Black Elk Elementary School, Omaha; Alex McCollister from Lincoln; Friends of the Nebraska Commission on the Status of Women; 58 fourth-grade students and teachers from Norris Elementary School, Omaha; 47 fourth-grade students and teacher from Abraham Lincoln School, Hastings; and 40 high school students and teacher from Creighton.

**RECESS**

At 11:50 a.m., on a motion by Senator Loudon, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senator Byars who was excused; and Senator Thompson who was excused until she arrives.

**GENERAL FILE**

**LEGISLATIVE BILL 500.** Title read. Considered.

The Standing Committee amendment, AM0773, found on page 886, was considered.

Senator Chambers offered the following motion:  
Bracket LB 500 until June 3, 2005.

**SENATOR JANSSEN PRESIDING**

**SENATOR CUDABACK PRESIDING**

Pending.

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 90A.** Introduced by Wehrbein, 2; Stuhr, 24; Cunningham, 40.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 90, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

**SELECT COMMITTEE REPORT  
Enrollment and Review**

**LEGISLATIVE BILL 614A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

**STANDING COMMITTEE REPORTS  
Business and Labor**

The Business and Labor Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Charles Cole - Boiler Safety Code Advisory Board

VOTE: Aye: Senators Cunningham, Combs, Preister, Kremer and Burling.  
Nay: None. Absent: Senators Chambers and Schimek.

The Business and Labor Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Jeffrey L. Orr - Commission of Industrial Relations

VOTE: Aye: Senators Cunningham, Combs, Preister, Kremer and Burling.  
Nay: None. Absent: Senators Chambers and Schimek.

(Signed) Douglas Cunningham, Chairperson

**Judiciary**

The Judiciary Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be

confirmed by the Legislature and suggests a record vote.

Robert Houston - Correctional Services, Department of

VOTE: Aye: Senators Aguilar, Bourne, Chambers, Combs, Flood, Foley, Friend, Dw. Pedersen. Nay: None. Absent: None.

**LEGISLATIVE RESOLUTION 76.** Reported to the Legislature for further consideration.

(Signed) Patrick J. Bourne, Chairperson

### **AMENDMENTS - Print in Journal**

Senators Howard, Chambers, Connealy, and Dw. Pedersen filed the following amendment to LB 425:

AM1504

(Amendments to Foley amendment, AM1374)

- 1 1. On page 1, line 13, after the period insert "The
- 2 highest priority for use of the funds shall be to make prenatal
- 3 services available for women on Indian reservations within
- 4 Nebraska. Such services shall seek to reduce risks of fetal
- 5 alcohol syndrome among this seriously underserved population."

Senator Jensen filed the following amendment to LB 426:

AM1531

(Amendments to AM1282)

- 1 1. Insert the following new sections:
- 2 "Sec. 10. Section 71-7607, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 71-7607. (1) The Nebraska Medicaid Intergovernmental
- 5 Trust Fund is created. The fund shall include revenue received
- 6 from governmental nursing facilities receiving payments for nursing
- 7 facility services under the medical assistance program established
- 8 pursuant to section 68-1018. The Department of Health and Human
- 9 Services Finance and Support shall remit such revenue to the State
- 10 Treasurer for credit to the fund. The department shall adopt and
- 11 promulgate rules and regulations to establish procedures for
- 12 participation by governmental nursing facilities and for the
- 13 receipt of such revenue under this section. Money from the
- 14 Nebraska Medicaid Intergovernmental Trust Fund shall be transferred
- 15 to the Nebraska Health Care Cash Fund as provided in section
- 16 71-7611.
- 17 (2) The department may use revenue in the Nebraska
- 18 Medicaid Intergovernmental Trust Fund to offset any unanticipated
- 19 reductions in medicaid funds received under this section.
- 20 (3) ~~For FY2003-04 and FY2004-05, transfers may be made~~
- 21 ~~from the fund to the Department of Health and Human Services Cash~~
- 22 ~~Fund, the Behavioral Health Services Fund, and the Attorney General~~

23 Child Protection Cash Fund at the direction of the Legislature to  
1 fund child welfare and protection activities and emergency  
2 protective services. The Department of Administrative Services  
3 shall administratively create the Attorney General Child Protection  
4 Cash Fund to be administered by the office of the Attorney General  
5 for the purpose of receiving fund transfers to assist with the  
6 prosecution of crimes against children.

7 (4) The State Treasurer shall transfer two million two  
8 hundred twenty thousand dollars from the Nebraska Medicaid  
9 Intergovernmental Trust Fund to the Department of Health and Human  
10 Services Cash Fund on or before May 1, 2004. The State Treasurer  
11 shall transfer five million four hundred twenty thousand dollars  
12 from the Nebraska Medicaid Intergovernmental Trust Fund to the  
13 Department of Health and Human Services Cash Fund on or before July  
14 15, 2004. The State Treasurer shall transfer eighty thousand  
15 dollars from the Nebraska Medicaid Intergovernmental Trust Fund to  
16 the Attorney General Child Protection Cash Fund on or before May 1,  
17 2004. The State Treasurer shall transfer eighty thousand dollars  
18 from the Nebraska Medicaid Intergovernmental Trust Fund to the  
19 Attorney General Child Protection Cash Fund on or before July 15,  
20 2004.

21 (5) Any money in the Nebraska Medicaid Intergovernmental  
22 Trust Fund available for investment shall be invested by the state  
23 investment officer pursuant to the Nebraska Capital Expansion Act  
24 and the Nebraska State Funds Investment Act.

25 Sec. 11. Section 71-7608, Revised Statutes Supplement,  
26 2004, is amended to read:

27 71-7608. The Nebraska Tobacco Settlement Trust Fund is  
1 created. The fund shall include any settlement payments or other  
2 revenue received by the State of Nebraska in connection with any  
3 tobacco-related litigation to which the State of Nebraska is a  
4 party. The Department of Health and Human Services Finance and  
5 Support shall remit such revenue to the State Treasurer for credit  
6 to the fund, except that of such revenue received on or after April  
7 1, 2005, ~~two three million five hundred thousand~~ dollars shall be  
8 credited annually to the Tobacco Prevention and Control Cash Fund.  
9 Subject to the terms and conditions of such litigation, money from  
10 the Nebraska Tobacco Settlement Trust Fund shall be transferred to  
11 the Nebraska Health Care Cash Fund as provided in section 71-7611.  
12 Any money in the Nebraska Tobacco Settlement Trust Fund available  
13 for investment shall be invested by the state investment officer  
14 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
15 State Funds Investment Act.

16 Sec. 18. The following sections are outright repealed:  
17 Sections 71-7601 to 71-7604, 71-7609, and 71-7610, Reissue Revised  
18 Statutes of Nebraska."

19 2. On page 5, line 15, before the period insert "2  
20 except that such amount shall be reduced by the amount of the  
21 unobligated balance in the Nebraska Health Care Cash Fund at the

- 22 time the transfer is made"; and in line 23 after the period insert  
 23 "Except for transfers made pursuant to subsections (3) through (6)  
 24 of this section, no more than fifty-two million dollars may be  
 25 appropriated or transferred from the Nebraska Health Care Cash Fund  
 26 in any fiscal year.".  
 27 3. On page 12, line 14, strike "71-7611" and insert  
 1 "71-7607, 71-7608, 71-7611,".  
 2 4. Renumber the remaining sections accordingly.

## RESOLUTION

### LEGISLATIVE RESOLUTION 110. Introduced by Foley, 29.

WHEREAS, Miss Martha Brach is a social studies and religion teacher at St. Peter's Catholic School in Lincoln, Nebraska; and

WHEREAS, Miss Brach has served students in Lincoln as a teacher for eleven years; and

WHEREAS, Miss Brach enjoys starting new school traditions, such as taking field trips to historical locations, holding mock elections, and creating and sponsoring a junior high history club; and

WHEREAS, Miss Brach's love of teaching and history have inspired all of the students who were lucky enough to be members of her classroom; and

WHEREAS, Miss Brach was chosen by the Lincoln Journal-Star as an A+ Educator of the Week; and

WHEREAS, Miss Brach will be leaving St. Peter's Catholic School and Nebraska soon to be closer to her family in Washington, D. C.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates and honors Miss Martha Brach for her eleven years of outstanding leadership and instruction in her classroom.

2. That a copy of this resolution be sent to Miss Martha Brach.

Laid over.

## GENERAL FILE

**LEGISLATIVE BILL 500.** The Chambers pending motion, found in this day's Journal, to bracket until June 3, 2005, was renewed.

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

Senator Chambers moved for a call of the house. The motion prevailed with 23 ayes, 1 nay, and 25 not voting.

The Chambers motion to bracket failed with 15 ayes, 24 nays, 7 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

### AMENDMENTS - Print in Journal

Senator D. Pederson filed the following amendment to LB 424:  
AM1486

(Amendments to AM1284)

- 1 1. On page 33, after line 11 insert "Program No. 962 --
- 2 Environmental Trust -- NCCF".

Senator D. Pederson filed the following amendment to LB 421:  
AM1485

(Amendments to AM1240)

- 1 PURPOSE: Remove deficit funding relating to closure of the
- 2 Nebraska Commission on the Status of Women.
- 3 1. Strike section 14 and renumber the remaining sections
- 4 accordingly.

Senator D. Pederson filed the following amendment to LB 426:  
(Amendment, AM1484, is printed separately and available in the Bill Room,  
Room 1104.)

Senator Chambers filed the following amendment to LB 90A:  
AM1528

- 1 1. On page 2, lines 23 and 24, strike "\$250,000" and
- 2 insert "\$1,000,000".
- 3 2. On page 3, lines 4 and 6, strike "\$250,000" and
- 4 insert "\$1,000,000".

Senator D. Pederson filed the following amendment to LB 427:  
AM1475

(Amendments to Standing Committee amendments, AM1288)

- 1 1. Insert the following new section:
- 2 "Section 1. Section 81-1201.21, Revised Statutes
- 3 Supplement, 2004, is amended to read:
- 4 81-1201.21. There is hereby created the Job Training
- 5 Cash Fund. The fund shall be under the direction of the Department
- 6 of Economic Development. Money may be transferred to the fund
- 7 pursuant to subdivision (1)(b)(iv) of section 48-621 and from the
- 8 Cash Reserve Fund at the direction of the Legislature. The
- 9 department shall establish a subaccount for all money transferred
- 10 from the Cash Reserve Fund to the Job Training Cash Fund on or
- 11 after July 1, 2005. Any unexpended and unobligated balance
- 12 remaining within such subaccount on July 1, 2007, shall be
- 13 transferred by the State Treasurer to the Cash Reserve Fund no
- 14 later than July 10, 2007. Any obligated amount not transferred
- 15 from the subaccount that remains unexpended on July 1, 2008, shall

16 be transferred by the State Treasurer to the Cash Reserve Fund no  
17 later than July 10, 2008.

18 The department shall use the fund to provide  
19 reimbursements for job training activities, including employee  
20 assessment, preemployment training, on-the-job training, training  
21 equipment costs, and other reasonable costs related to helping  
22 industry and business locate or expand in Nebraska, or to provide  
23 upgrade skills training of the existing labor force necessary to  
1 adapt to new technology or the introduction of new product lines.  
2 Any money in the fund available for investment shall be  
3 invested by the state investment officer pursuant to the Nebraska  
4 Capital Expansion Act and the Nebraska State Funds Investment  
5 Act.".

6 2. On page 3, after line 24 insert the following new  
7 subsection:

8 "(11) On or before July 8, 2005, the State Treasurer  
9 shall transfer fifteen million dollars from the Cash Reserve Fund  
10 to the Job Training Cash Fund. This transfer shall be returned to  
11 the Cash Reserve Fund in amounts according to section 81-1201.21.";  
12 in line 25 strike "section" and insert "sections 81-1201.21 and";  
13 and in line 26 strike "is" and insert "are".

14 3. Renumber the remaining sections accordingly.

Senator D. Pederson filed the following amendment to LB 425:  
AM1509

(Amendments to Standing Committee amendments, AM0521)

- 1 1. On page 122, line 18, strike "1,240,453 1,240,453"
- 2 and insert "16,240,453 16,240,453"; in line 20, strike "3,698,166
- 3 3,773,721" and insert "18,698,166 18,773,721"; and in lines 23
- 4 and 26, strike "\$1,107,944" and insert "\$16,107,944".

## GENERAL FILE

**LEGISLATIVE BILL 500.** Senator Chambers offered the following  
motion:

Recommit LB 500 to the Revenue Committee.

**SENATOR SCHIMEK PRESIDING**

**SENATOR CUDABACK PRESIDING**

Pending.

**MESSAGE FROM THE GOVERNOR**

May 10, 2005

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bill 401 was received in my office on May 9, 2005.

This bill was signed by me and delivered to the Secretary of State on May 10, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

**AMENDMENTS - Print in Journal**

Senators Pahls, Jensen, D. Pederson, and Redfield filed the following amendment to LB 614:

AM1554

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 81-1316, Revised Statutes
- 4 Supplement, 2004, is amended to read:
- 5 81-1316. (1) All agencies and personnel of state
- 6 government shall be covered by sections 81-1301 to 81-1319 and
- 7 shall be considered subject to the State Personnel System, except
- 8 the following:
- 9 (a) All personnel of the office of the Governor;
- 10 (b) All personnel of the office of the Lieutenant
- 11 Governor;
- 12 (c) All personnel of the office of the Secretary of
- 13 State;
- 14 (d) All personnel of the office of the State Treasurer;
- 15 (e) All personnel of the office of the Attorney General;
- 16 (f) All personnel of the office of the Auditor of Public
- 17 Accounts;
- 18 (g) All personnel of the Legislature;
- 19 (h) All personnel of the court systems;
- 20 (i) All personnel of the Board of Educational Lands and
- 21 Funds;
- 22 (j) All personnel of the Public Service Commission;
- 23 (k) All personnel of the Nebraska Brand Committee;
- 24 (l) All personnel of the Commission of Industrial

- 1 Relations;  
2 (m) All personnel of the State Department of Education;  
3 (n) All personnel of the Nebraska state colleges and the  
4 Board of Trustees of the Nebraska State Colleges;  
5 (o) All personnel of the University of Nebraska;  
6 (p) All personnel of the Coordinating Commission for  
7 Postsecondary Education;  
8 (q) All personnel of the Governor's Policy Research  
9 Office, but not to include personnel within the State Energy  
10 Office;  
11 (r) All personnel of the Commission on Public Advocacy;  
12 (s) All inspectors of the State Electrical Division;  
13 (t) All agency heads;  
14 ~~(u)~~ (u) The Director of Medical Services established  
15 under section 83-125 and the chief executive officers of the  
16 Beatrice State Developmental Center, Lincoln Regional Center,  
17 Norfolk Regional Center, Hastings Regional Center, Grand Island  
18 Veterans' Home, Norfolk Veterans' Home, Thomas Fitzgerald Veterans'  
19 Home, Western Nebraska Veterans' Home, Youth Rehabilitation and  
20 Treatment Center-Kearney, and Youth Rehabilitation and Treatment  
21 Center-Geneva;  
22 ~~(v)~~ (v) All personnel employed as pharmacists,  
23 physicians, psychiatrists, or psychologists of the Department of  
24 Health and Human Services, the Department of Health and Human  
25 Services Finance and Support, and the Department of Health and  
26 Human Services Regulation and Licensure; and  
27 ~~(w)~~ (w) Deputies and examiners of the Department of  
1 Banking and Finance and the Department of Insurance as set forth in  
2 sections 8-105 and 44-119, except for those deputies and examiners  
3 who remain in the State Personnel System.

4 (2) At each agency head's discretion, up to the following  
5 number of additional positions may be exempted from the State  
6 Personnel System, based on the following agency size categories:

7	Number of Agency	Number of Noncovered
8	Employees	Positions
9	less than 25	0
10	25 to 100	1
11	101 to 250	2
12	251 to 500	3
13	501 to 1000	4
14	1001 to 2000	5
15	2001 to 3000	8
16	3001 to 4000	11
17	4001 to 5000	14
18	over 5000	17

19 The purpose of having such noncovered positions shall be  
20 to allow agency heads the opportunity to recruit, hire, and  
21 supervise critical, confidential, or policymaking personnel without  
22 restrictions from selection procedures, compensation rules, career

23 protections, and grievance privileges. Persons holding the  
24 noncovered positions shall serve at the pleasure of the agency head  
25 and shall be paid salaries set by the agency head.

26 (3) No changes to this section or to the number of  
27 noncovered positions within an agency shall affect the status of  
1 personnel employed on the date the changes become operative without  
2 their prior written agreement. A state employee's career  
3 protections or coverage by personnel rules and regulations shall  
4 not be revoked by redesignation of the employee's position as a  
5 noncovered position without the prior written agreement of such  
6 employee.

7 Sec. 2. Section 81-1373, Revised Statutes Supplement,  
8 2004, is amended to read:

9 81-1373. (1) For the purpose of implementing the state  
10 employees' right to organize for the purpose of collective  
11 bargaining, there are hereby created twelve bargaining units for  
12 all state agencies except the University of Nebraska, the Nebraska  
13 state colleges, and other constitutional offices. The units shall  
14 consist of state employees whose job classifications are  
15 occupationally and functionally related and who share a community  
16 of interest. The bargaining units shall be:

17 (a) Maintenance, Trades, and Technical, which unit is  
18 composed of generally recognized blue collar and technical classes,  
19 including highway maintenance workers, carpenters, plumbers,  
20 electricians, print shop workers, auto mechanics, engineering aides  
21 and associates, and similar classes;

22 (b) Administrative Support, which unit is composed of  
23 clerical and administrative nonprofessional classes, including  
24 typists, secretaries, accounting clerks, computer operators, office  
25 service personnel, and similar classes;

26 (c) Health and Human Care Nonprofessional, which unit is  
27 composed of institutional care classes, including nursing aides,  
1 psychiatric aides, therapy aides, and similar classes;

2 (d) Social Services and Counseling, which unit is  
3 composed of generally professional-level workers providing services  
4 and benefits to eligible persons. Classes shall include job  
5 service personnel, income maintenance personnel, social workers,  
6 counselors, and similar classes;

7 (e) Administrative Professional, which unit is composed  
8 of professional employees with general business responsibilities,  
9 including accountants, buyers, personnel specialists, data  
10 processing personnel, and similar classes;

11 (f) Protective Service, which unit is composed of  
12 institutional security personnel, including correctional officers,  
13 building security guards, and similar classes;

14 (g) Law Enforcement, which unit is composed of employees  
15 holding powers of arrest, including Nebraska State Patrol officers  
16 and sergeants, conservation officers, fire marshal personnel, and  
17 similar classes. Sergeants, investigators, and patrol officers

18 employed by the Nebraska State Patrol as authorized in section  
19 81-2004 shall be presumed to have a community of interest with each  
20 other and shall be included in this bargaining unit notwithstanding  
21 any other provision of law which may allow for the contrary;

22 (h) Health and Human Care Professional, which unit is  
23 composed of community health, nutrition, and health service  
24 professional employees, including nurses, doctors, psychologists,  
25 pharmacists, dietitians, licensed therapists, and similar classes;

26 (i) Examining, Inspection, and Licensing, which unit is  
27 composed of employees empowered to review certain public and  
1 business activities, including driver-licensing personnel, revenue  
2 agents, bank and insurance examiners who remain in the State  
3 Personnel System under sections 8-105 and 44-119, various public  
4 health and protection inspectors, state electrical inspectors who  
5 remain in the State Personnel System under section 81-2104, and  
6 similar classes;

7 (j) Engineering, Science, and Resources, which unit is  
8 composed of specialized professional scientific occupations,  
9 including civil and other engineers, architects, chemists,  
10 geologists and surveyors, and similar classes;

11 (k) Teachers, which unit is composed of employees  
12 required to be licensed or certified as a teacher; and

13 (l) Supervisory, which unit is composed of employees who  
14 are supervisors as defined in section 48-801.

15 All employees who are excluded from bargaining units  
16 pursuant to the Industrial Relations Act, all employees of the  
17 personnel division of the Department of Administrative Services,  
18 and all employees of the Division of Employee Relations of the  
19 Department of Administrative Services shall be excluded from any  
20 bargaining unit of state employees.

21 (2) Any employee organization, including one which  
22 represents other state employees, may be certified or recognized as  
23 provided in the Industrial Relations Act as the exclusive  
24 collective-bargaining agent for a supervisory unit, except that  
25 such unit shall not have full collective-bargaining rights but  
26 shall be afforded only meet-and-confer rights.

27 (3) It is the intent of the Legislature that professional  
1 and managerial employee classifications and office and service  
2 employee classifications be grouped in broad occupational units for  
3 the University of Nebraska and the Nebraska state colleges  
4 established on a university-wide or college-system-wide basis,  
5 including all campuses within the system. Any unit entirely  
6 composed of supervisory employees of the University of Nebraska or  
7 the Nebraska state colleges shall be afforded only meet-and-confer  
8 rights. Except as provided in subsection (4) of this section, the  
9 bargaining units for academic, faculty, and teaching employees of  
10 the University of Nebraska and the Nebraska state colleges shall  
11 continue as they exist on April 9, 1987, and any adjustments  
12 thereto or new units therefor shall continue to be determined

13 pursuant to the Industrial Relations Act.

14 (4) Except as provided in subdivision (2)(c) of section  
15 85-1,119, when the institution now known as Kearney State College  
16 is transferred to the control and management of the Board of  
17 Regents of the University of Nebraska, any academic, faculty, and  
18 teaching employees of Kearney State College who are included in a  
19 bargaining unit and represented by a certified or recognized  
20 collective-bargaining agent as of June 30, 1991, shall, on and  
21 after July 1, 1991, compose a separate bargaining unit of  
22 University of Nebraska employees, and such agent shall be entitled  
23 to certification by the commission for the new bargaining unit  
24 without the necessity of a representation election. Any  
25 adjustments to the unit or the representation thereof shall be  
26 determined pursuant to the Industrial Relations Act.

27 (5) Other constitutional offices shall continue to  
1 subscribe to the procedures for unit determination in the  
2 Industrial Relations Act, except that the commission is further  
3 directed to determine the bargaining units in such manner as to (a)  
4 reduce the effect of overfragmentation of bargaining units on the  
5 efficiency of administration and operations of the constitutional  
6 office and (b) be consistent with the administrative structure of  
7 the constitutional office. Any unit entirely composed of  
8 supervisory employees of a constitutional office shall be afforded  
9 only meet-and-confer rights.

10 Sec. 3. Section 81-2104, Revised Statutes Supplement,  
11 2004, is amended to read:

12 81-2104. The board shall have power to:

13 (1) Elect its own officers;

14 (2) Engage and fix the compensation of such officers,  
15 inspectors, and employees as may be required in the performance of  
16 its duties. Inspectors hired after the effective date of this act  
17 shall hold office at the will of the board and shall receive such  
18 salary as fixed by the board based upon the level of credentials  
19 for the position. Each employee who is employed as an inspector on  
20 the effective date of this act may elect to become employed at  
21 will. The election to become employed at will may be made at any  
22 time upon notification to the board in writing, but once made, such  
23 election shall be final. Until the election to be employed at will  
24 is made, the employee shall be treated as continuing participation  
25 in the State Personnel System;

26 (3) Pay such other expenses as may be necessary in the  
27 performance of its duties;

1 (4) Provide upon request such additional voluntary  
2 inspections and reviews as it deems appropriate;

3 (5) Adopt, promulgate, and revise rules and regulations  
4 necessary to enable it to carry into effect the State Electrical  
5 Act. In adopting and promulgating such rules and regulations, the  
6 board shall be governed by the minimum standards set forth in the  
7 National Electrical Code issued and adopted by the National Fire

8 Protection Association in 2002, Publication Number 70-2002, and  
9 amendments to the code adopted as of January 1, 2003, which code  
10 and amendments shall be filed in the offices of the Secretary of  
11 State and the board and shall be a public record. The board shall  
12 adopt and promulgate rules and regulations establishing wiring  
13 standards that protect public safety and health and property and  
14 that apply to all electrical wiring which is installed subject to  
15 the State Electrical Act;

16 (6) Revoke, suspend, or refuse to renew any license or  
17 registration granted pursuant to the State Electrical Act when the  
18 licensee or registrant (a) violates any provision of the National  
19 Electrical Code as adopted pursuant to subdivision (5) of this  
20 section, the act, or any rule or regulation adopted and promulgated  
21 pursuant to the act, (b) fails or refuses to pay any examination,  
22 registration, or license renewal fee required by law, (c) is an  
23 electrical contractor or master electrician and fails or refuses to  
24 provide and keep in force a public liability insurance policy as  
25 required by the board, or (d) violates any political subdivision's  
26 approved inspection ordinances;

27 (7) Order disconnection of power to any electrical  
1 installation that is proximately dangerous to health and property;

2 (8) Order removal of electrical wiring and apparatus from  
3 premises when such wiring and apparatus is proximately dangerous to  
4 health and property;

5 (9) Investigate, for the purpose of identifying dangerous  
6 electrical wiring or violations of the National Electrical Code as  
7 adopted pursuant to subdivision (5) of this section, any death by  
8 electrocution that occurs within the State of Nebraska;

9 (10) Refuse to renew any license granted pursuant to the  
10 act when the licensee fails to submit evidence of completing the  
11 continuing education requirements under section 81-2117.01;

12 (11) Provide for the amount and collection of fees for  
13 inspection and other services;

14 (12) Adopt a seal, and the executive secretary shall have  
15 the care and custody thereof; and

16 (13) Enforce the provisions of the National Electrical  
17 Code as adopted pursuant to subdivision (5) of this section.

18 Sec. 4. Original sections 81-1316, 81-1373, and 81-2104,  
19 Revised Statutes Supplement, 2004, are repealed.

20 Sec. 5. Since an emergency exists, this act takes effect  
21 when passed and approved according to law."

Senator Raikes filed the following amendment to LB 425:  
AM1524

(Amendments to Standing Committee amendments, AM0521)

1 PURPOSE: Add an additional \$1,611,467 of General Funds in  
2 FY2005-06 and \$3,335,738 of General Funds in FY2006-07 to increase  
3 the amount of state aid provided for special education aid by 4%,  
4 rather than 3%, per year and provide an additional \$5,000,000 of

5 General Fund aid for early childhood education in FY2006-07.

6 AMENDMENT:

7 1. On page 19, strike line 25 and insert "GENERAL FUND

8 868,136,128 929,856,176".

9 2. On page 20, strike line 1 and insert "PROGRAM TOTAL

10 1,115,841,638 1,185,432,945"; in line 3 strike "\$866,524,661" and

11 insert "\$868,136,128"; in line 6 strike "\$921,520,438" and insert

12 "\$929,856,176"; in line 21 strike "\$165,981,123" and insert

13 "\$167,592,590"; and in line 23 strike "\$170,960,556" and insert

14 "\$174,296,294".

15 3. On page 21, line 4, strike "\$1,992,321" and insert

16 "\$6,992,321".

Senator D. Pederson filed the following amendment to LB 425:

AM1482

(Amendments to Standing Committee amendments, AM0521)

1 1. PURPOSE: Correct a federal fund error.

2 AMENDMENT:

3 a. On page 37, strike line 4 and insert:

4 "FEDERAL FUND est. 11,883,059 12,120,078".

5 2. PURPOSE: Correct the personal service limitation for

6 new medicaid eligibility workers.

7 AMENDMENT:

8 a. On page 42, strike line 7 and insert: "SALARY LIMIT

9 73,682,954 76,560,878".

10 3. PURPOSE: Correct a general fund error:

11 a. On page 43, strike line 21 and insert:

12 "GENERAL FUND 1,183,316 1,183,306".

13 4. PURPOSE: Add reappropriation authorization left out

14 of the Appropriation Committee's recommendation.

15 AMENDMENT:

16 a. On page 43, after line 23 insert the following:

17 "From the General Fund appropriation balance existing on

18 June 30, 2005, \$274,000 is hereby reappropriated."

19 5. PURPOSE: To allow the expenditure of cash funds for

20 HIPAA activity which will not be completed in FY2004-05.

21 AMENDMENT:

22 a. On page 49, after line 24 insert the following:

23 "The unexpended Cash Fund appropriation balance remaining

1 on June 30, 2005, is hereby reappropriated."

2 6. PURPOSE: To reflect the transfer of the County

3 Juvenile Services Aid Program from the Department of Health and

4 Human Services Finance and Support to the Nebraska Commission on

5 Law Enforcement and Criminal Justice in LB 193.

6 AMENDMENT:

7 a. Strike section 111 and insert the following new

8 section:

9 "Sec. 239. AGENCY NO. 78 -- NEBRASKA COMMISSION ON LAW

10 ENFORCEMENT AND CRIMINAL JUSTICE



13 865,823,560 921,520,438"; and

14 b. On page 20, strike line 1 and insert "PROGRAM TOTAL  
15 1,113,529,070 1,177,097,207"; in line 3 strike "\$866,524,661" and  
16 insert "\$865,823,560"; and in line 10 strike "\$684,174,282" and  
17 insert "\$683,473,181".

18 3. PURPOSE: Reappropriate the unexpended balances in  
19 Programs 310 and 331 in Agency 29, Department of Natural Resources.  
20 AMENDMENT:

21 a. On page 72, after line 18, insert the following new  
22 paragraph:

23 "The unexpended General Fund appropriation balance  
1 existing on June 30, 2005, is hereby reappropriated."; and

2 b. On page 73, after line 8, insert the following new  
3 paragraph:

4 "The unexpended General Fund appropriation balance  
5 existing on June 30, 2005, is hereby reappropriated.".

6 4. PURPOSE: Allow the one-time use of the cash fund  
7 balance of Commission for the Deaf and Hard of Hearing for computer  
8 equipment replacement.

9 AMENDMENT:

10 a. On page 135, strike lines 3 and 4 and insert:

11 "CASH FUND	32,430	9,430
12 PROGRAM TOTAL	742,046	739,792".

### **MOTION - Print in Journal**

Senator Schimek filed the following motion to LB 614:  
Bracket LB 614 until June 3, 2005.

### **GENERAL FILE**

**LEGISLATIVE BILL 500.** The Chambers pending motion, found in this day's Journal, to recommit to the Revenue Committee, was renewed.

Senator Landis moved the previous question. The question is, "Shall the debate now close?"

Senator Landis moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Senator Landis requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 30:

Baker	Connealy	Heidemann	Kruse	Pederson, D.
Beutler	Engel	Hudkins	Landis	Price
Brashear	Erdman	Jensen	Langemeier	Schrock
Brown	Fischer	Johnson	Louden	Smith
Burling	Flood	Kopplin	McDonald	Thompson
Combs	Foley	Kremer	Pahls	Wehrbein

Voting in the negative, 10:

Bourne	Howard	Preister	Redfield	Stuthman
Cornett	Janssen	Raikes	Schimek	Synowiecki

Present and not voting, 4:

Chambers	Cudaback	Pedersen, Dw.	Stuhr
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Absent and not voting, 1:

Mines

Excused and not voting, 4:

Aguilar	Byars	Cunningham	Friend
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The motion to cease debate prevailed with 30 ayes, 10 nays, 4 present and not voting, 1 absent and not voting, and 4 excused and not voting.

The Chambers motion to recommit to committee failed with 14 ayes, 21 nays, 9 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:  
Reconsider the vote to recommit LB 500 to the Revenue Committee.

Pending.

### **AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 500:

FA264

On page 3, line 10 after "are" insert "reasonably"

Senators Landis and Howard filed the following amendment to LB 500:  
AM1529

(Amendments to Standing Committee amendments, AM0773)

- 1 1. On page 2, line 21, before the period insert "; and
- 2 in line 26 after 'facilities' insert 'that are provided free to the
- 3 public'; and in line 27 after the semicolon insert "in line 4

4 after 'project' insert 'Development project costs does not  
5 include property taxes incurred by a company that locates within a  
6 development project area, any type of lobbying expense, or the  
7 development, construction, or operation of any type of parking  
8 facility that requires the public to pay a fee';".

9 2. Insert the following new amendments:  
10 "15. On page 18, line 10, and page 23, line 23, after  
11 the period insert 'Financial assistance shall not include any  
12 lodging tax collected by a hotel as defined in section 81-1247 that  
13 was in existence at the time of application'.  
14 16. On page 19, line 8; and page 24, line 11, after the

15 period insert 'The contracting public body may not pledge any  
16 portion of the financial assistance received under this section for  
17 the construction, development, or operation of a parking facility  
18 that requires the public to pay any type of fee for its use'.  
19 3. Renumber the remaining amendments accordingly.

Senator Beutler filed the following amendment to LB 500:

FA265

Strike line 1 on page 1.

Senator Beutler filed the following amendment to LB 500:

FA266

Strike line 2 on page 1.

## RESOLUTION

### LEGISLATIVE RESOLUTION 111. Introduced by Combs, 32.

WHEREAS, Alexa Foster was eight years old when she died on May 19, 2004. Alexa was enjoying a day of fun with her fellow students in the city park on the last day of school when a cinderblock wall collapsed on her; and

WHEREAS, the state should do everything it can to avoid a similar tragedy in the future.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That in honor of Alexa, the Legislature declares May 19, 2005, Alexa Check Day. The Legislature encourages citizens to pay close attention to their surroundings: To inspect the areas where children play; go out of their way to visit the bathrooms, locker rooms, playground equipment, and other areas where children play; and most importantly, that they act when they see something that is potentially unsafe. Further, the Legislature encourages citizens to get involved with their local parks, city council, and recreation centers and to be accountable.

Laid over.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Connealy asked unanimous consent to have his name added as cointroducer to LB 90. No objections. So ordered.

Senator Redfield asked unanimous consent to have her name added as cointroducer to LB 478. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 13 students and adults from Zion Lutheran School, Pierce; Dr. Darrel Berg from Coupeville, Washington; 70 fourth-grade students and teachers from Hillrise Elementary School, Elkhorn; 21 sixth-grade students and teachers from St. Isidore School, Columbus; and 38 sixth-grade students and teacher from Valentine.

The Doctor of the Day was Dr. Derrick Anderson from Lincoln.

**MOTION - Adjournment**

Speaker Brashear moved to adjourn. The motion prevailed with 17 ayes, 5 nays, 12 present and not voting, and 15 excused and not voting, and at 5:40 p.m., the Legislature adjourned until 9:00 a.m., Wednesday, May 11, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**SEVENTY-SEVENTH DAY - MAY 11, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SEVENTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, May 11, 2005

**PRAYER**

The prayer was offered by Senator Price.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Baker, Brashear, Brown, Byars, Hudkins, Kopplin, Landis, Mines, Dw. Pedersen, Synowiecki, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-sixth day was approved.

**SELECT FILE**

**LEGISLATIVE BILL 737.** E & R amendment, AM7092, found on page 1405, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 422.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 423.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 421.** E & R amendment, AM7093, found on page 1383, was adopted.

Senator D. Pederson renewed his pending amendment, AM1485, found on page 1459.

The D. Pederson amendment was adopted with 26 ayes, 0 nays, 12 present and not voting, and 11 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 424.** Senator D. Pederson renewed his pending amendment, AM1486, found on page 1459.

The D. Pederson amendment was adopted with 28 ayes, 0 nays, 11 present and not voting, and 10 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 425.** E & R amendment, AM7098, found on page 1430, was adopted.

Senator Chambers reoffered his amendment, AM1380, on file and referred to on page 1374 and considered on page 1391.

Senator Chambers asked unanimous consent to withdraw his reoffered amendment, AM1380, on file and referred to on page 1374, and replace it with his substitute reoffered amendment, AM1379, found on page 1374 and considered on page 1391. No objections. So ordered.

Senator Chambers moved for a call of the house. The motion prevailed with 20 ayes, 2 nays, and 27 not voting.

Senator Chambers requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 23:

Aguilar	Conneally	Kruse	Pederson, D.	Synowiecki
Bourne	Cudaback	McDonald	Preister	Thompson
Brown	Howard	Mines	Price	Wehrbein
Byars	Janssen	Pahls	Raikes	
Chambers	Johnson	Pedersen, Dw.	Schimek	

Voting in the negative, 12:

Baker	Engel	Foley	Langemeier
Burling	Erdman	Friend	Louden
Cunningham	Fischer	Hudkins	Smith

Present and not voting, 11:

Beutler	Heidemann	Kremer	Stuhr
Brashear	Jensen	Redfield	Stuthman
Flood	Kopplin	Schrock	

Excused and not voting, 3:

Combs                      Cornett                      Landis

The Chambers amendment lost with 23 ayes, 12 nays, 11 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Stuthman reoffered the Stuthman-Bourne amendment, AM1470, found on page 1392.

## **SENATOR ENGEL PRESIDING**

## **SENATOR CUDABACK PRESIDING**

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Senator Stuthman moved for a call of the house. The motion prevailed with 21 ayes, 1 nay, and 27 not voting.

Senator Chambers requested a record vote on the Stuthman-Bourne amendment.

Voting in the affirmative, 38:

Aguilar	Cunningham	Hudkins	McDonald	Schimek
Baker	Engel	Janssen	Mines	Schrock
Bourne	Fischer	Johnson	Pahls	Smith
Brashear	Flood	Kopplin	Pedersen, Dw.	Stuhr
Burling	Foley	Kremer	Pederson, D.	Stuthman
Connealy	Friend	Kruse	Preister	Wehrbein
Cornett	Heidemann	Langemeier	Price	
Cudaback	Howard	Louden	Redfield	

Voting in the negative, 8:

Beutler	Chambers	Landis	Synowiecki
Byars	Jensen	Raikes	Thompson

Present and not voting, 2:

Brown                      Erdman

Excused and not voting, 1:

Combs

The Stuthman-Bourne amendment was adopted with 38 ayes, 8 nays, 2

present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Bourne reoffered his amendment, FA216, found on page 1372 and considered on page 1394.

Senator Bourne asked unanimous consent to withdraw his reoffered amendment, FA216, found on page 1372, and replace it with the Bourne-Mines substitute amendment, AM1570. No objections. So ordered.  
AM1570

(Amendments to Standing Committee amendments, AM0521)

- 1 1. On page 17, strike lines 14 and 15 and insert the
- 2 following:
- 3 "GENERAL FUND        11,257,193                                8,777,193
- 4 PROGRAM TOTAL       11,257,193                                8,777,193"
- 5 and in line 17 strike "\$8,777,193" and insert "\$11,257,193".

Pending.

## STANDING COMMITTEE REPORT

### Education

**LEGISLATIVE BILL 577.** Placed on General File as amended.  
Standing Committee amendment to LB 577:  
AM1510

- 1 1. Strike original section 5 and insert the following
- 2 new section:
- 3 "Sec. 4. Section 79-1028, Revised Statutes Supplement,
- 4 2004, is amended to read:
- 5 79-1028. (1) A Class II, III, IV, V, or VI school
- 6 district may exceed the local system's applicable allowable growth
- 7 rate for (a) expenditures in support of a service which is the
- 8 subject of an agreement or a modification of an existing agreement
- 9 whether operated by one of the parties to the agreement or an
- 10 independent joint entity or joint public agency, (b) expenditures
- 11 to pay for repairs to infrastructure damaged by a natural disaster
- 12 which is declared a disaster emergency pursuant to the Emergency
- 13 Management Act, (c) expenditures to pay for judgments, except
- 14 judgments or orders from the Commission of Industrial Relations,
- 15 obtained against a school district which require or obligate a
- 16 school district to pay such judgment, to the extent such judgment
- 17 is not paid by liability insurance coverage of a school district,
- 18 (d) expenditures to pay for sums agreed to be paid by a school
- 19 district to certificated employees in exchange for a voluntary
- 20 termination of employment, or (e) expenditures to pay for
- 21 lease-purchase contracts approved on or after July 1, 1997, and
- 22 before July 1, 1998, to the extent the lease payments were not
- 23 budgeted expenditures for fiscal year 1997-98.

24 (2) A Class II, III, IV, V, or VI district may exceed its  
 1 applicable allowable growth rate by a specific dollar amount if the  
 2 district projects an increase in formula students in the district  
 3 over the current school year greater than twenty-five students or  
 4 greater than those listed in the schedule provided in this  
 5 subsection, whichever is less. Districts shall project increases  
 6 in formula students on forms prescribed by the department. The  
 7 department shall approve, deny, or modify the projected increases.

8	Average daily	Projected increase
9	membership of	of formula students
10	district	by percentage
11	0 - 50	10
12	50.01 - 250	5
13	250.01 - 1,000	3
14	1,000.01 and over	1

15 The department shall compute the district's estimated  
 16 allowable budget per pupil using the budgeted general fund  
 17 expenditures found on the budget statement for the current school  
 18 year divided by the number of formula students in the current  
 19 school year and multiplied by the district's applicable allowable  
 20 growth rate. The resulting allowable budget per pupil shall be  
 21 multiplied by the projected formula students to arrive at the  
 22 estimated budget needs for the ensuing year. The department shall  
 23 allow the district to increase its general fund budget of  
 24 expenditures for the ensuing school year by the amount necessary to  
 25 fund the estimated budget needs of the district as computed  
 26 pursuant to this subsection. On or before July 1, the department  
 27 shall make available to districts which have been allowed  
 1 additional growth pursuant to this subsection the necessary  
 2 document to recalculate the actual formula students of such  
 3 district. Such document shall be filed with the department under  
 4 subsection (1) of section 79-1024.

5 (3) A Class II, III, IV, V, or VI district may exceed its  
 6 applicable allowable growth rate by a specific dollar amount if  
 7 construction, expansion, or alteration of district buildings will  
 8 cause an increase in building operation and maintenance costs of at  
 9 least five percent. The department shall document the projected  
 10 increase in building operation and maintenance costs and may allow  
 11 a Class II, III, IV, V, or VI district to exceed the local system's  
 12 applicable allowable growth rate by the amount necessary to fund  
 13 such increased costs. The department shall compute the actual  
 14 increased costs for the school year and shall notify the district  
 15 on or before July 1 of the recovery of the additional growth  
 16 pursuant to this subsection.

17 (4) A Class II, III, IV, V, or VI district may exceed its  
 18 applicable allowable growth rate by a specific dollar amount if the  
 19 district demonstrates to the satisfaction of the department that it  
 20 will exceed its applicable allowable growth rate as a result of  
 21 costs pursuant to the Retirement Incentive Plan authorized in

22 section 79-855 or the Staff Development Assistance authorized in  
23 section 79-856. The department shall compute the amount by which  
24 the increased cost of such program or programs exceeds the  
25 district's applicable allowable growth rate and shall allow the  
26 district to increase its general fund expenditures by such amount  
27 for that fiscal year.

1 (5) A Class II, III, IV, or V district may exceed its  
2 applicable allowable growth rate by the specific dollar amount of  
3 incentive payments or base fiscal year incentive payments to be  
4 received in such school fiscal year pursuant to section 79-1011.  
5 (6) A Class II, III, IV, V, or VI district may exceed the  
6 local system's applicable allowable growth rate by a specific  
7 dollar amount in any year for which the state aid calculation  
8 includes students in the qualified early childhood education fall  
9 membership for a year in which an early childhood education program  
10 of the district is receiving a grant for the third year or is  
11 receiving an expansion grant. The department shall compute the  
12 amount by which the district may exceed the local system's  
13 applicable allowable growth rate by multiplying the cost grouping  
14 cost per student for the local system's cost grouping by the local  
15 system's adjusted formula students attributed to such early  
16 childhood education program if the program is receiving a grant for  
17 the third year in the school fiscal year for which the fall  
18 membership is measured or by the local system's adjusted formula  
19 students attributed to such early childhood education program minus  
20 the local system's adjusted formula students attributed to such  
21 early childhood education program for the prior school fiscal year  
22 if the program is receiving an expansion grant in the school fiscal  
23 year for which the fall membership is measured. The department  
24 shall allow the district to increase its general fund expenditures  
25 by such amount for such school fiscal year."

26 2. On page 7, line 12, after "membership" insert "for  
27 school fiscal year 2005-06 and each school fiscal year thereafter";  
1 in line 19 after "years" insert ", including any such students in  
2 portions of such program receiving an expansion grant," and strike  
3 "planned" and insert "actual"; and in line 23 after "September"  
4 insert "2005 and each year thereafter".

5 3. On page 8, line 2, after "years" insert ", including  
6 any such students in portions of such program receiving an  
7 expansion grant," and strike "planned" and insert "actual".

8 4. On page 15, line 19, strike "and" and insert "minus  
9 (i)"; and in line 25 after "system" insert "and (ii) for the first  
10 two school fiscal years immediately following the school fiscal  
11 year in which a district in the local system received an expansion  
12 grant pursuant to section 79-1103, the difference between the  
13 adjusted formula students attributed to early childhood education  
14 programs approved by the department pursuant to section 79-1103 for  
15 the school fiscal year immediately following the school fiscal year  
16 in which a district in the local system received an expansion grant

17 minus the adjusted formula students attributed to early childhood  
18 education programs approved by the department pursuant to section  
19 79-1103 for the school fiscal year in which a district in the local  
20 system received an expansion grant".  
21 5. On page 17, line 25, strike "local" and show as  
22 stricken; in line 26 strike "cooperatives" through "and", show as  
23 stricken, and insert "individually or in cooperation with other  
24 school districts or" and after "units" insert an underscored comma;  
25 and in line 28 strike "Each", show as stricken, and insert "The  
26 first priority shall be for continuation grants for programs that  
27 received grants in school fiscal year 2005-06 in an amount equal to  
1 the amount of the grant for school fiscal year 2005-06 minus the  
2 calculated state aid amount. The calculated state aid amount shall  
3 be calculated by multiplying the cost grouping cost per student for  
4 the school district's cost grouping by the adjusted formula  
5 students attributed to the early childhood education program  
6 pursuant to the Tax Equity and Educational Opportunities Support  
7 Act. The second priority shall be for new grants and expansion  
8 grants for programs that will serve at-risk children who will be  
9 eligible to attend kindergarten the following school year. New  
10 grants may be given for up to three years in an amount up to  
11 one-half of the total budget of the program per year. Expansion  
12 grants may be given for one year in an amount up to one-half of the  
13 budget for expanding the capacity of the program to serve  
14 additional children. The third priority shall be for new grants,  
15 expansion grants, and continuation grants for programs serving  
16 children younger than those who will be eligible to attend  
17 kindergarten the following school year. New grants may be given  
18 for up to three years in an amount up to one-half the total budget  
19 of the program per year. Expansion grants may be given for one  
20 year in an amount up to one-half the budget for expanding the  
21 capacity of the program to serve additional children. Continuation  
22 grants under this priority may be given annually in an amount up to  
23 one-half the total budget of the program per year minus any  
24 continuation grants received under the first priority. Programs  
25 serving children who will be eligible to attend kindergarten the  
26 following school year shall be accounted for separately for grant  
27 purposes from programs serving younger children, but the two types  
1 of programs may be combined within the same classroom to serve  
2 multi-age children. Programs that receive grants for school year  
3 2005-06 to serve both children who will be eligible to attend  
4 kindergarten the following school year and younger children shall  
5 account for the two types of programs separately for grant purposes  
6 beginning with school year 2006-07 and shall be deemed to have  
7 received grants prior to school year 2006-07 for each year that  
8 grants were received for the types of programs representing the age  
9 groups of the children served."  
10 6. On page 18, strike lines 1 through 11 and show the  
11 old matter as stricken.

12 7. On page 19, line 22, after "(r)" insert "continuity  
13 with the instructional hours in kindergarten, (s)"; in line 24  
14 strike "(s)", show as stricken, and insert "(t)"; and in line 25  
15 strike "(t)", show as stricken, and insert "(u)".  
16 8. On page 20, lines 2 and 3, strike the new matter; and  
17 in line 12 after "Act" insert ", expansion grants, and continuation  
18 grants".

(Signed) Ron Raikes, Chairperson

### **VISITORS**

Visitors to the Chamber were Senator Kopplin's wife and daughter, Mary Lou and Janette, from Gretna; Jared and Jon Oswald from Madison; 44 fourth-grade students and teachers from Syracuse-Dunbar-Avoca Public Schools, Syracuse; Senator Mines' mother, Dorothy Mines, and Edee Legge from North Bend; constituents from District 24; 9 students and teacher from Millard North High School; 70 fourth-grade students and teachers from Skyline Elementary School, Elkhorn; 33 fourth-grade students and teachers from St. Bonaventure School, Columbus; and 18 fourth-grade students and teacher from Bellevue Christian Academy, Bellevue.

### **RECESS**

At 11:56 a.m., on a motion by Senator Cornett, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

### **ROLL CALL**

The roll was called and all members were present except Senator Langemeier who was excused; and Senators Brown, Cunningham, Kruse, and Landis who were excused until they arrive.

### **SELECT FILE**

**LEGISLATIVE BILL 425.** The Bourne-Mines pending amendment, AM1570, found in this day's Journal, was renewed.

Senator Bourne moved for a call of the house. The motion prevailed with 28 ayes, 1 nay, and 20 not voting.

Senator Bourne requested a roll call vote on the Bourne-Mines amendment.

Voting in the affirmative, 16:

Beutler	Cornett	Kopplin	Preister
Bourne	Friend	Louden	Price
Brashear	Howard	Mines	Schimek
Connealy	Johnson	Pahls	Synowiecki

Voting in the negative, 19:

Baker	Cunningham	Heidemann	Pedersen, Dw.	Smith
Burling	Engel	Hudkins	Pederson, D.	Stuhr
Byars	Erdman	Kremer	Redfield	Wehrbein
Combs	Flood	Landis	Schrock	

Present and not voting, 12:

Aguilar	Fischer	Jensen	Raikes
Chambers	Foley	Kruse	Stuthman
Cudaback	Janssen	McDonald	Thompson

Excused and not voting, 2:

Brown	Langemeier
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The Bourne-Mines amendment lost with 16 ayes, 19 nays, 12 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Schimek renewed her pending amendment, AM1495, found on page 1437.

Senator Schimek moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Senator Schimek requested a roll call vote on her amendment.

Voting in the affirmative, 25:

Brashear	Foley	Johnson	Pahls	Schrock
Byars	Howard	Kopplin	Pedersen, Dw.	Smith
Chambers	Hudkins	Kremer	Preister	Stuhr
Connealy	Janssen	Louden	Price	Stuthman
Cornett	Jensen	McDonald	Schimek	Wehrbein

Voting in the negative, 9:

Aguilar	Cudaback	Erdman	Flood	Mines
Bourne	Cunningham	Fischer	Landis	

Present and not voting, 14:

Baker	Burling	Friend	Pederson, D.	Synowiecki
Beutler	Combs	Heidemann	Raikes	Thompson
Brown	Engel	Kruse	Redfield	

Excused and not voting, 1:

Langemeier

The Schimek amendment was adopted with 25 ayes, 9 nays, 14 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Pending.

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 112.** Introduced by Schimek, 27.

**PURPOSE:** To examine the use of agreements by political subdivisions under the Interlocal Cooperation Act or the Joint Public Agency Act. In 2004, the Legislature passed LB 939 requiring certain political subdivisions to file with the Auditor of Public Accounts all agreements these entities have entered into under the Interlocal Cooperation Act or the Joint Public Agency Act. The bill was in response to studies conducted by both the Auditor of Public Accounts and the Government, Military and Veterans Affairs Committee of the Legislature. Both studies discovered the increased use of such agreements by political subdivisions.

With the information gathered as a result of LB 939, additional issues have arisen. The issues to be examined by this interim study will include determining why there has been an increase in the use of such agreements and whether these agreements are consistent with the intent of the Interlocal Cooperation Act and the Joint Public Agency Act.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 113.** Introduced by McDonald, 41.

**PURPOSE:** The purpose of this study is to examine the public health and safety issues related to paint ball sports, including, but not limited to, the

prevalence of head and eye injuries among participants, the need for and use of head and eye protection by participants, and the age and gender of participants, and to determine whether these issues necessitate eventual state regulation of paint ball sports.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 114.** Introduced by McDonald, 41.

PURPOSE: The purpose of this study is to examine matters and issues related to cemeteries and cemetery law, including, but not limited to, obsolete statutory language, statutory definitions of perpetual care and perpetual care funds, local zoning ordinance notification requirements for individual plot owners, and the effects of urban and rural residential growth.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the General Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **AMENDMENTS - Print in Journal**

Senator Landis filed the following amendment to LB 211A:  
AM1499

(Amendments to Final Reading copy)

- 1 1. Insert the following new sections:
- 2 "Section 1. There is hereby appropriated (1) \$11,325
- 3 from the State Game Fund for FY2005-06 and (2) \$11,325 from the
- 4 State Game Fund for FY2006-07 to the Game and Parks Commission, for
- 5 Program 336, to aid in carrying out the provisions of Legislative
- 6 Bill 211, Ninety-ninth Legislature, First Session, 2005.
- 7 No expenditures for permanent and temporary salaries and
- 8 per diems for state employees shall be made from funds appropriated
- 9 in this section.
- 10 Sec. 2. There is hereby appropriated (1) \$11,325 from
- 11 the State Park Cash Revolving Fund for FY2005-06 and (2) \$11,325

12 from the State Park Cash Revolving Fund for FY2006-07 to the Game  
13 and Parks Commission, for Program 549, to aid in carrying out the  
14 provisions of Legislative Bill 211, Ninety-ninth Legislature, First  
15 Session, 2005.

16 No expenditures for permanent and temporary salaries and  
17 per diems for state employees shall be made from funds appropriated  
18 in this section."

19 2. On page 2, lines 2 and 3, after "Fund" insert "and  
20 \$10,000 from the State Archaeology Cash Fund".

21 3. Renumber the remaining section accordingly.

Senator Beutler filed the following amendment to LB 90:  
AM1543

(Amendments to E & R amendments, AM7099)

1 1. On page 4, line 7, after "any" insert "agricultural

2 or agricultural product value-added".

3 2. On page 5, strike beginning with line 13 through the  
4 semicolon in line 14; in line 15 strike "(8)" and insert "(7)"; and  
5 in line 21 after "Act" insert "for projects".

6 3. On page 6, strike beginning with "Grant" in line 21  
7 through line 24.

## SELECT FILE

**LEGISLATIVE BILL 425.** Senator Howard renewed the Howard et al.  
pending amendment, AM1504, found on page 1456.

Senator Foley offered the following amendment to the Howard et al.  
pending amendment:

AM1584

(Amendments to AM1504)

1 1. On page 1, strike beginning with "The" in line 1

2 through "population" in line 5 and insert "The dissemination of  
3 information regarding the risks of fetal alcohol syndrome and the  
4 harmful effects of substance abuse during pregnancy shall be a  
5 component of services offered".

Senator Foley withdrew his amendment.

Senator Schimek offered the following amendment to the Howard et al.  
pending amendment:

FA267

Amend AM1504

On page one, in line three after "for" insert "Native American" and after  
women delete "on Indian reservations."

Senator Schimek withdrew her amendment.

Senator Howard moved for a call of the house. The motion prevailed with

24 ayes, 1 nay, and 24 not voting.

Senator Howard requested a roll call vote on the Howard et al. amendment.

Voting in the affirmative, 17:

Aguilar	Chambers	Johnson	McDonald	Thompson
Beutler	Connealy	Kruse	Preister	
Bourne	Howard	Landis	Schimek	
Byars	Janssen	Louden	Synowiecki	

Voting in the negative, 16:

Baker	Erdman	Heidemann	Mines
Burling	Fischer	Hudkins	Redfield
Cornett	Foley	Kopplin	Smith
Engel	Friend	Kremer	Wehrbein

Present and not voting, 13:

Brashear	Cudaback	Jensen	Raikes	Stuthman
Brown	Cunningham	Pahls	Schrock	
Combs	Flood	Pederson, D.	Stuhr	

Excused and not voting, 3:

Langemeier    Pedersen, Dw. Price

The Howard et al. amendment lost with 17 ayes, 16 nays, 13 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator D. Pederson asked unanimous consent to withdraw his pending amendment, AM1509, found on page 1460, and replace it with his substitute amendment, AM1567. No objections. So ordered.  
AM1567

(Amendments to AM0521)

- 1 1. On page 122, line 18, strike "1,240,453 1,240,453"
- 2 and insert "16,240,453 1,240,453"; in line 20, strike "3,698,166
- 3 3,773,721" and insert "18,698,166 3,773,721"; and in line 23
- 4 strike "\$1,107,944" and insert "\$16,107,944".

**SENATOR SCHIMEK PRESIDING**

**SENATOR CUDABACK PRESIDING**

Pending.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 421, 422, 423, 424, and 737.

ER9033

Enrollment and Review Change to LB 424

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Standing Committee amendments, AM1284:
  - a. On page 32, line 22, the period has been struck; and
  - b. On page 33, line 5, a comma has been inserted after "Training".

(Signed) Michael Flood, Chairperson

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 115.** Introduced by Friend, 10; Brown, 6.

WHEREAS, the sixth grade class at Joslyn Elementary School in Omaha won the 2004-05 Project Citizen State Showcase held at the State Capitol on May 2, 2005; and

WHEREAS, the goal of the team's project was to work with local officials to improve crosswalk safety near the school; and

WHEREAS, the Legislature supports civic learning in our schools and recognizes the importance of encouraging our young people to participate in their government; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Joslyn Elementary School Project Citizen Team be congratulated for being selected as the 2004-05 Project Citizen State Champion for grades 5-8.

2. That a copy of this resolution be sent to the Joslyn Elementary School Project Citizen Team and their teacher Mark Kelln.

Laid over.

**LEGISLATIVE RESOLUTION 116.** Introduced by Johnson, 37; Schrock, 38.

WHEREAS, the ninth grade class at Wilcox-Hildreth High School won the 2004-05 Project Citizen State Showcase held at the State Capitol on May

9, 2005; and

WHEREAS, the goal of the team's project was to work with local officials to increase traffic safety near their school; and

WHEREAS, the Legislature supports civic learning in our schools and recognizes the importance of encouraging our young people to participate in their government; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Wilcox-Hildreth High School Project Citizen Team be congratulated for being selected as the 2004-05 Project Citizen State Champion for ninth grade.

2. That a copy of this resolution be sent to the Wilcox-Hildreth High School Project Citizen Team and their teacher Ken Meyers.

Laid over.

### **AMENDMENTS - Print in Journal**

Senator Chambers filed the following amendment to LB 13:

(Amendment, AM1536, is printed separately and available in the Bill Room, Room 1104.)

Senator Wehrbein filed the following amendment to LB 90A:  
AM1586

1 1. Insert the following new section:

2 "Sec. 4. The State Treasurer shall transfer \$2,500,000

3 from the General Fund to the Ethanol Production Incentive Cash Fund

4 on or before June 30, 2006, or on such date as directed by the

5 budget administrator. The State Treasurer shall transfer

6 \$2,500,000 from the General Fund to the Ethanol Production

7 Incentive Cash Fund on or before June 30, 2007, or on such date as

8 directed by the budget administrator.".

9 2. Renumber the remaining section accordingly.

Senators Smith and Jensen filed the following amendment to LB 70A:  
AM1337

1 1. Strike original section 2 and insert the following

2 new section:

3 "Sec. 2. There is hereby appropriated \$10,000 from the

4 General Fund for FY2005-06 to the Legislative Council, for Program

5 122, to aid in carrying out the provisions of Legislative Bill 70,

6 Ninety-ninth Legislature, First Session, 2005.

7 No expenditures for permanent and temporary salaries and

8 per diems for state employees shall be made from funds appropriated

9 in this section.".

Senator Louden filed the following amendment to LB 673:  
AM1587

(Amendments to E & R amendments, AM7086)

- 1 1. On page 1, line 8, strike "where" and insert
- 2 "(Cynomys ludovicianus) and the"; in line 9 strike "live" and
- 3 insert "that live there"; in line 19 strike "the federal
- 4 government"; and in line 22 strike "dogs" and insert "dog
- 5 colonies".
- 6 2. On page 2, line 1, after "director" insert "pursuant
- 7 to the act"; in line 2 after "county" insert "board"; in line 4
- 8 strike "or controlling"; in lines 6 and 7 strike "or controls"; in
- 9 lines 8, 14, and 25 strike "dogs" and insert "dog colonies"; and in
- 10 line 11 strike "to" and insert "onto".
- 11 3. On page 3, line 15, after "person" insert "within a
- 12 county that has adopted a coordinated program for the management of
- 13 black-tailed prairie dog colonies under section 3 of this act"; in
- 14 lines 20 and 26 strike "dogs" and insert "dog colonies"; and in
- 15 line 24 strike "any" and insert "the".
- 16 4. On page 4, line 1, after "expanded" insert "from
- 17 property of one owner in the county"; in line 2 before "objects"
- 18 insert "in the county"; in line 5 strike "it" and insert "the
- 19 county board"; strike beginning with "black-tailed" in line 8
- 20 through "are" in line 9 and insert "the colony is"; strike
- 21 beginning with "The" in line 10 through "form" in line 11 and
- 22 insert "A county board sending a notice under this section shall
- 23 use the following form"; in line 12 strike "(i)"; in line 16 after
- 1 "you" insert "that has expanded onto adjacent property of another
- 2 owner within the county and the owner of the adjacent property
- 3 objects to such expansion. The colony is located"; in lines 23 and
- 4 24 strike "or controls"; and in line 25 strike "dogs" and insert
- 5 "dog colonies".
- 6 5. On page 5, line 1, strike "to" and insert "onto" and
- 7 after "property" insert "within the county"; in line 7 strike
- 8 "dogs" and insert "dog colonies"; in line 17 strike "control" and
- 9 insert "management"; and strike lines 23 through 27.
- 10 6. Strike page 6.
- 11 7. On page 7, strike lines 1 through 4; in lines 5, 9,
- 12 and 16 strike "landowner" and insert "person"; strike beginning
- 13 with "If" in line 11 through "upon" in line 14 and insert "Upon";
- 14 in line 15 strike "(1)(d)(i)" and insert "(1)(d)" and after the
- 15 comma insert "if"; in line 19 strike "record landowner" and insert
- 16 "owner of record of the property"; in line 21 strike "landowner"
- 17 and insert "owner of the property"; and in line 25 strike "in" and
- 18 insert "of".
- 19 8. On page 8, strike lines 6 through 16; in lines 22 and
- 20 25 strike "to" and insert "in"; and in line 23 after "dog" insert
- 21 "colony".
- 22 9. On page 9, line 12, strike "A" and insert "The"; in
- 23 line 13 strike "dogs" and insert "dog colonies"; in lines 23 and 24
- 24 strike "shall" and insert "may"; in line 26 after the comma insert

25 "and"; and strike beginning with "may" in line 26 through line 27.  
 26 10. On page 10, line 1, strike beginning with "under"  
 27 through "shall" and insert "may"; in line 13 strike "shall" and  
 1 insert "may"; strike beginning with "to" in line 14 through  
 2 "81-2,237" in line 20 and insert "to carry out the Black-Tailed  
 3 Prairie Dog Management Act"; and in line 21 after "dog" insert  
 4 "colony".  
 5 11. On page 12, line 18, strike "dogs" and insert "dog  
 6 colonies".

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 146A.** Introduced by Price, 26.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 146, Ninety-ninth Legislature, First Session, 2005.

### **SELECT FILE**

**LEGISLATIVE BILL 425.** Senator Beutler offered the following amendment to the D. Pederson pending amendment:  
 AM1590

(Amendments to Standing Committee amendments, AM0521)

1 1. On page 122, line 17, strike "2,415,684" and insert  
 2 "17,415,684"; in line 20 strike "3,698,166" and insert  
 3 "18,698,166"; in line 23 after "FY2005-06" insert "\$15,000,000  
 4 General Funds,"; and after line 27 insert:  
 5 "The General Fund state aid appropriation to this program  
 6 shall be used for customized job training grants. Any unexpended  
 7 and unobligated balance of General Funds designated for job  
 8 training grants existing on July 1, 2007, shall be lapsed to the  
 9 General Fund. Any obligated General Fund balance that was not  
 10 lapsed on July 1, 2007, that remains unexpended on July 1, 2008,  
 11 shall be lapsed to the General Fund."

Senator Baker moved the previous question. The question is, "Shall the debate now close?"

Senator Baker moved for a call of the house. The motion prevailed with 13 ayes, 1 nay, and 35 not voting.

The motion to cease debate prevailed with 26 ayes, 3 nays, and 20 not voting.

The Chair declared the call raised.

Senator Beutler moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Aguilar	Connealy	Howard	Louden	Schimek
Beutler	Cunningham	Janssen	McDonald	Synowiecki
Bourne	Fischer	Kopplin	Preister	Thompson
Chambers	Foley	Landis	Price	

Voting in the negative, 23:

Baker	Engel	Johnson	Pederson, D.	Stuhr
Brashear	Erdman	Kremer	Raikes	Stuthman
Brown	Flood	Kruse	Redfield	Wehrbein
Burling	Friend	Mines	Schrock	
Cornett	Hudkins	Pahls	Smith	

Present and not voting, 4:

Byars	Cudaback	Heidemann	Jensen
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Excused and not voting, 3:

Combs	Langemeier	Pedersen, Dw.
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The Beutler amendment lost with 19 ayes, 23 nays, 4 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

### **SENATOR JANSSEN PRESIDING**

The D. Pederson pending amendment, AM1567, found in this day's Journal, was renewed.

Senator Mines moved the previous question. The question is, "Shall the debate now close?"

### **SENATOR CUDABACK PRESIDING**

Senator Mines moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

The motion to cease debate prevailed with 25 ayes, 5 nays, and 19 not voting.

The D. Pederson amendment was adopted with 29 ayes, 8 nays, 10 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Raikes asked unanimous consent to withdraw his pending amendment, AM1524, found on page 1466, and replace it with his substitute amendment, AM1568. No objections. So ordered.  
AM1568

(Amendments to Standing Committee amendments, AM0521)

1 PURPOSE: Add \$3,222,934 of General Funds in FY2005-06 and  
2 \$3,319,623 of General Funds in FY2006-07 to provide a 5 percent  
3 increase in special education aid in FY2005-06, rather than a 3  
4 percent increase. Increase funds for early childhood education by  
5 \$1,777,000 of General Funds each fiscal year.

6 AMENDMENT:

7 1. On page 19, strike line 13 and insert "GENERAL FUND  
8 9,399,360 9,685,345"; strike line 17 and insert "PROGRAM TOTAL  
9 22,618,269 23,110,336"; and strike line 25 and insert "GENERAL  
10 FUND 871,435,745 926,528,211".

11 2. On page 20, strike line 1 and insert "PROGRAM TOTAL  
12 1,119,141,255 1,182,104,980"; in line 3 strike "\$866,524,661" and  
13 insert "\$871,435,745"; in line 6 strike "\$921,520,438" and insert  
14 "\$926,528,211"; in line 21 strike "\$165,981,123" and insert  
15 "\$169,204,057"; and in line 23 strike "\$170,960,556" and insert  
16 "\$174,280,179".

17 3. On page 21, in lines 3 and 4 strike "\$1,992,321" and  
18 insert "\$3,680,471".

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

The Raikes amendment was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Senator D. Pederson renewed his pending amendment, AM1482, found on page 1467.

The D. Pederson amendment was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

Senator D. Pederson renewed his pending amendment, AM1483, found on page 1468.

The D. Pederson amendment was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Senator McDonald offered the following amendment:  
AM1565

(Amendments to Standing Committee amendments, AM0521)

- 1 PURPOSE: Increase funding for compulsive gamblers assistance  
2 programs by \$500,000 of General Funds each fiscal year.  
3 AMENDMENT:  
4 1. On page 42, strike line 3 and insert "GENERAL FUND  
5 52,979,882 56,330,438"; strike line 6 and insert "PROGRAM TOTAL  
6 124,380,488 128,748,364"; strike line 7 and insert "SALARY LIMIT  
7 73,692,445 75,999,539"; and after line 23 insert:  
8 "There is included in the appropriation to this program  
9 for FY2005-06 \$50,000 General Funds and for FY2006-07 \$50,000  
10 General Funds for administration of the compulsive gamblers  
11 assistance program, which funds shall only be used for such  
12 purpose."  
13 2. On page 46, strike line 13 and insert "GENERAL FUND  
14 40,389,037 41,988,531"; strike line 16 and insert "PROGRAM TOTAL  
15 70,076,294 71,938,816"; in line 23 strike "\$39,939,037" and  
16 insert "\$40,389,037"; and in line 26 strike "\$41,538,531" and  
17 insert "\$41,988,531".  
18 3. On page 47, after line 7 insert:  
19 "There is included in the amount shown as General Fund  
20 aid in this program \$450,000 General Funds for FY2005-06 and  
21 \$450,000 General Funds for FY2006-07 for aid for compulsive  
22 gamblers assistance programs, which funds shall only be used for  
23 such purpose.".

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Senator McDonald moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator McDonald requested a roll call vote on her amendment.

Voting in the affirmative, 21:

Baker	Howard	Kruse	Schimek	Synowiecki
Brown	Janssen	Louden	Schrock	
Byars	Jensen	McDonald	Smith	
Combs	Johnson	Pahls	Stuhr	
Flood	Kopplin	Price	Stuthman	

Voting in the negative, 6:

Bourne	Connealy	Landis
Burling	Erdman	Redfield

Present and not voting, 16:

Beutler	Cunningham	Friend	Pederson, D.
Brashear	Engel	Heidemann	Raikes
Cornett	Fischer	Kremer	Thompson
Cudaback	Foley	Mines	Wehrbein

Absent and not voting, 1:

Hudkins

Excused and not voting, 5:

Aguilar	Chambers	Langemeier	Pedersen, Dw. Preister
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The McDonald amendment lost with 21 ayes, 6 nays, 16 present and not voting, 1 absent and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Beutler offered the following amendment:

AM1508

(Amendments to AM0521)

- 1 1. On page 16, lines 18 and 19, strike each occurrence
- 2 of "3,000,000" and insert "520,000"; and in lines 24 and 26 strike
- 3 "\$3,000,000" and insert "\$520,000".
- 4 2. On page 17, lines 14 and 15, strike each occurrence
- 5 of "8,777,193" and insert "11,257,193"; and in lines 17 and 19
- 6 strike "\$8,777,193" and insert "\$11,257,193".

The Beutler amendment was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

Senators Thompson and Foley offered the following amendment:

AM1600

(Amendments to Standing Committee amendments, AM0521)

- 1 1. Strike the Foley amendment, AM1374.
- 2 2. On page 36, strike line 5 and insert "FEDERAL FUND
- 3 est. 13,486,723 13,831,310"; strike line 6 and insert "PROGRAM
- 4 TOTAL 29,775,289 30,540,339"; and after line 16 insert:
- 5 "There is included in the appropriation to this program
- 6 for FY2005-06 \$250,000 Federal Temporary Assistance For Needy
- 7 Families (TANF) Funds to be used for a grant from Program 177 for
- 8 the purposes described in this section. There is included in the
- 9 appropriation to this program for FY2006-07 \$250,000 Federal
- 10 Temporary Assistance For Needy Families (TANF) Funds to be used for
- 11 a grant from Program 177 for the purposes described in this
- 12 section. Funds shall be used for a pilot program to provide
- 13 assistance to women who are pregnant or who believe they may be

14 pregnant.

15 It is the intent of the Legislature that the department  
16 shall conduct a competitive solicitation for a grant award to a  
17 nonprofit entity or coalition of nonprofit entities to act as a  
18 service provider to conduct the pilot program. A preference shall  
19 be given to Nebraska-based nonprofit entities or coalitions of  
20 nonprofit entities if federal law allows such preference. In order  
21 to qualify for a grant from this appropriation, the applicant or  
22 applicant coalition selected shall have demonstrated experience  
23 operating a program or programs that have a stated purpose of  
1 assisting pregnant women with services that include, but need not  
2 be limited to, the provision of maternity and infant clothing,  
3 food, and supplies, information about pregnancy and medical  
4 services, and information about adoption, nutrition, parenting, and  
5 the availability of additional public and private assistance to  
6 pregnant women and mothers of newborn children. The pilot program  
7 may expand existing programs and shall establish outcome  
8 measurements and provide this information to the Legislature. The  
9 pilot program shall not refer for, perform, or counsel for  
10 abortions and shall be physically and financially separate from any  
11 program that refers for, performs, or counsels for abortions."

Pending.

### **AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 426:  
AM1507

(Amendments to AM1282)

1 1. Insert the following new sections:  
2 "Section 1. Section 18-2603, Revised Statutes  
3 Supplement, 2004, is amended to read:  
4 18-2603. For purposes of the Municipal Infrastructure  
5 Redevelopment Fund Act:  
6 (1) Bond means any evidence of indebtedness, including,  
7 but not limited to, bonds, notes including notes issued pending  
8 long-term financing arrangements, warrants, debentures, obligations  
9 under a loan agreement or a lease-purchase agreement, or any  
10 similar instrument or obligation;  
11 (2) Fund means the Municipal Infrastructure Redevelopment  
12 Fund;  
13 (3) Infrastructure project means any of the following  
14 projects, or any combination thereof, to be owned or operated by a  
15 municipality: Solid waste management facilities; wastewater, storm  
16 water, and water treatment works and systems, water distribution  
17 facilities, and water resources projects, including, but not  
18 limited to, pumping stations, transmission lines, and mains and  
19 their appurtenances; hazardous waste disposal systems; resource  
20 recovery systems; airports; port facilities; buildings and capital

21 equipment used in the operations and activities of municipal  
22 government and to provide services to the residents of the  
23 municipality; convention and tourism facilities; redevelopment  
1 projects as defined in section 18-2103; and mass transit and other  
2 transportation systems, including parking facilities and excluding  
3 public highways and bridges and municipal roads, streets, and  
4 bridges;

5 (4) Municipal allocation amount means, for each  
6 municipality, the amount derived by multiplying the amount to be  
7 allocated by the fraction determined by dividing the total  
8 population of the municipality by the total population of the state  
9 living in municipalities, each as determined by the most recent  
10 federal census figures certified by the Tax Commissioner as  
11 provided in section 77-3,119; and

12 (5) Municipality means any city ~~of any class or any~~  
13 ~~village in the state, except that for fiscal years 2003-04 and~~  
14 ~~2004-05, municipality means only cities~~ of the primary class.

15 Sec. 13. Section 77-2602, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 77-2602. (1) Every person engaged in distributing or  
18 selling cigarettes at wholesale in this state shall pay to the Tax  
19 Commissioner of this state a special privilege tax. This shall be  
20 in addition to all other taxes. It shall be paid prior to or at  
21 the time of the sale, gift, or delivery to the retail dealer in the  
22 several amounts as follows: On each package of cigarettes  
23 containing not more than twenty cigarettes, sixty-four cents per  
24 package; and on packages containing more than twenty cigarettes,  
25 the same tax as provided on packages containing not more than  
26 twenty cigarettes for the first twenty cigarettes in each package  
27 and a tax of one-twentieth of the tax on the first twenty  
1 cigarettes on each cigarette in excess of twenty cigarettes in each  
2 package.

3 (2) Commencing July 1, 1994, and continuing until October  
4 1, 2004, the State Treasurer shall place the equivalent of  
5 twenty-one cents of such tax in the General Fund. Commencing  
6 October 1, 2004, the State Treasurer shall place the equivalent of  
7 forty-nine cents of such tax in the General Fund. The State  
8 Treasurer shall reduce the amount placed in the General Fund under  
9 this subsection by the amount prescribed in subdivision (3)(d) of  
10 this section. For purposes of this section, the equivalent of a  
11 specified number of cents of the tax shall mean that portion of the  
12 proceeds of the tax equal to the specified number divided by the  
13 tax rate per package of cigarettes containing not more than twenty  
14 cigarettes.

15 (3) The State Treasurer shall distribute the remaining  
16 proceeds of such tax in the following order:

17 (a) First, beginning July 1, 1980, the State Treasurer  
18 shall place the equivalent of one cent of such tax in the Nebraska  
19 Outdoor Recreation Development Cash Fund. For fiscal year

20 distributions occurring after FY1998-99, the distribution under  
21 this subdivision shall not be less than the amount distributed  
22 under this subdivision for FY1997-98. Any money needed to increase  
23 the amount distributed under this subdivision to the FY1997-98  
24 amount shall reduce the distribution to the General Fund;

25 (b) Second, beginning July 1, 1993, the State Treasurer  
26 shall place the equivalent of three cents of such tax in the  
27 Department of Health and Human Services Finance and Support Cash  
1 Fund to carry out sections 81-637 to 81-640. For fiscal year  
2 distributions occurring after FY1998-99, the distribution under  
3 this subdivision shall not be less than the amount distributed  
4 under this subdivision for FY1997-98. Any money needed to increase  
5 the amount distributed under this subdivision to the FY1997-98  
6 amount shall reduce the distribution to the General Fund;

7 (c) Third, beginning July 1, 2001, and continuing until  
8 October 1, 2002, the State Treasurer shall place the equivalent of  
9 five cents of such tax in the Building Renewal Allocation Fund.  
10 Beginning October 1, 2002, and continuing until all the purposes of  
11 the Deferred Building Renewal Act have been fulfilled, the State  
12 Treasurer shall place the equivalent of seven cents of such tax in  
13 the Building Renewal Allocation Fund. The Legislature shall  
14 appropriate each fiscal year all sums inuring to the fund, plus  
15 interest earnings, for the Task Force for Building Renewal to be  
16 used to carry out its duties and to fulfill the purposes of the  
17 Deferred Building Renewal Act. Unexpended balances existing at the  
18 end of each fiscal year shall be, and are hereby, reappropriated.  
19 The distribution under this subdivision shall not be less than the  
20 amount distributed under this subdivision for FY1997-98. Any money  
21 needed to increase the amount distributed under this subdivision to  
22 the FY1997-98 amount shall reduce the distribution to the General  
23 Fund;

24 (d) Fourth, ~~beginning July 1, 1994, and continuing until~~  
25 ~~July 1, 2009, 2003, the State Treasurer shall place in the~~  
26 ~~Municipal Infrastructure Redevelopment Fund the sum of three~~  
27 ~~million dollars each fiscal year to carry out the Municipal~~  
1 ~~Infrastructure Redevelopment Fund Act. Commencing July 1, 2003,~~  
2 ~~and continuing until July 1, 2005, the State Treasurer shall place~~  
3 ~~in such fund the sum of five hundred twenty thousand dollars each~~  
4 ~~fiscal year to carry out the act. Commencing July 1, 2005, and~~  
5 ~~continuing until July 1, 2009, the State Treasurer shall place in~~  
6 ~~such fund the sum of three million dollars each fiscal year to~~  
7 ~~carry out the act.~~ The Legislature shall appropriate the sum of  
8 five hundred twenty thousand dollars each year for fiscal years  
9 year 2003-04 and 2004-05. The Legislature shall appropriate the  
10 sum of three million dollars each year for fiscal year 2005-06  
11 through fiscal year 2008-09;

12 (e) Fifth, beginning July 1, 2001, the State Treasurer  
13 shall place the equivalent of two cents of such tax in the  
14 Information Technology Infrastructure Fund;

15 (f) Sixth, beginning July 1, 2001, and continuing until  
16 June 30, 2016, the State Treasurer shall place one million dollars  
17 each fiscal year in the City of the Primary Class Development Fund.  
18 If necessary, the State Treasurer shall reduce the distribution of  
19 tax proceeds to the General Fund pursuant to subsection (2) of this  
20 section by such amount required to fulfill the one million dollars  
21 to be distributed pursuant to this subdivision;

22 (g) Seventh, beginning July 1, 2001, and continuing until  
23 June 30, 2016, the State Treasurer shall place one million five  
24 hundred thousand dollars each fiscal year in the City of the  
25 Metropolitan Class Development Fund. If necessary, the State  
26 Treasurer shall reduce the distribution of tax proceeds to the  
27 General Fund pursuant to subsection (2) of this section by such  
1 amount required to fulfill the one million five hundred thousand  
2 dollars to be distributed pursuant to this subdivision; and

3 (h) Eighth, beginning October 1, 2002, and continuing  
4 until October 1, 2004, the State Treasurer shall place the  
5 equivalent of twenty-eight cents of such tax in the Cash Reserve  
6 Fund.

7 (4) If, after distributing the proceeds of such tax  
8 pursuant to subsections (2) and (3) of this section, any proceeds  
9 of such tax remain, the State Treasurer shall place such remainder  
10 in the Nebraska Capital Construction Fund.

11 (5) The Legislature hereby finds and determines that the  
12 projects funded from the Municipal Infrastructure Redevelopment  
13 Fund and the Building Renewal Allocation Fund are of critical  
14 importance to the State of Nebraska. It is the intent of the  
15 Legislature that the allocations and appropriations made by the  
16 Legislature to such funds or, in the case of allocations for the  
17 Municipal Infrastructure Redevelopment Fund, to the particular  
18 municipality's account not be reduced until all contracts and  
19 securities relating to the construction and financing of the  
20 projects or portions of the projects funded from such funds or  
21 accounts of such funds are completed or paid or, in the case of the  
22 Municipal Infrastructure Redevelopment Fund, the earlier of such  
23 date or July 1, 2009, and that until such time any reductions in  
24 the cigarette tax rate made by the Legislature shall be  
25 simultaneously accompanied by equivalent reductions in the amount  
26 dedicated to the General Fund from cigarette tax revenue. Any  
27 provision made by the Legislature for distribution of the proceeds  
1 of the cigarette tax for projects or programs other than those to  
2 (a) the General Fund, (b) the Nebraska Outdoor Recreation  
3 Development Cash Fund, (c) the Department of Health and Human  
4 Services Finance and Support Cash Fund, (d) the Municipal  
5 Infrastructure Redevelopment Fund, (e) the Building Renewal  
6 Allocation Fund, (f) the Information Technology Infrastructure  
7 Fund, (g) the City of the Primary Class Development Fund, (h) the  
8 City of the Metropolitan Class Development Fund, and (i) the Cash  
9 Reserve Fund shall not be made a higher priority than or an equal

10 priority to any of the programs or projects specified in  
11 subdivisions (a) through (i) of this subsection.  
12 Sec. 14. Section 77-27,137.01, Reissue Revised Statutes  
13 of Nebraska, is amended to read:  
14 77-27,137.01. (1) The appropriation provided for in  
15 section 77-27,136 for aid to incorporated municipalities shall be  
16 allocated by the Tax Commissioner to the various incorporated  
17 municipalities. The Tax Commissioner shall determine the amount to  
18 be distributed to the incorporated municipalities and certify such  
19 amounts by voucher to the Director of Administrative Services.  
20 Each amount shall be distributed in seven as nearly as possible  
21 equal monthly payments on the last business day of each month  
22 beginning in December. The State Treasurer shall, on the business  
23 day preceding the last business day of each month, notify the  
24 Director of Administrative Services of the amount of funds  
25 available in the General Fund for payment purposes. The Director  
26 of Administrative Services shall, on the last business day of each  
27 month, draw warrants against funds appropriated. Except as  
1 provided in subsection (2) of this section, the Tax Commissioner  
2 shall compute the amount due the incorporated municipalities on the  
3 ratio of the population of the particular incorporated municipality  
4 to the total population of all incorporated municipalities in the  
5 state as determined by the most recent federal census figures  
6 certified by the Tax Commissioner as provided in section 77-3,119,  
7 which amounts shall be placed in the general fund of such  
8 municipalities.  
9 (2) For fiscal years 2003-04 ~~and 2004-05~~ through 2008-09,  
10 the allocation of state aid provided for in subsection (1) of this  
11 section shall be calculated based on the amount appropriated plus  
12 an additional five hundred twenty thousand dollars, and the amount  
13 of state aid calculated for a city of the primary class shall be  
14 reduced by the amount received by the city of the primary class  
15 under the Municipal Infrastructure Redevelopment Fund Act for  
16 fiscal years 2003-04 ~~and 2004-05~~ through 2008-09. Beginning with  
17 fiscal year ~~2005-06~~ 2009-10, the amount of aid to municipalities  
18 appropriated shall be increased by five hundred twenty thousand  
19 dollars."  
20 2. Renumber the remaining sections and correct the  
21 repealer accordingly.

Senator Chambers filed the following amendment to LB 426:  
AM1574

(Amendments to Standing Committee amendments, AM1282)

- 1 1. On page 6, after line 20 insert the following new
- 2 subsection:
- 3 "(7) The University of Nebraska and postsecondary
- 4 educational institutions having colleges of medicine in Nebraska
- 5 and their affiliated research hospitals in Nebraska, as a condition
- 6 of receiving any funds appropriated or transferred from the

7 Nebraska Health Care Cash Fund, shall not discriminate against any  
 8 person on the basis of sexual orientation."

Senator Byars filed the following amendment to LB 426:  
 AM1556

(Amendments to AM1531)

1 1. On page 3, line 24, after "section" insert "and the  
 2 reappropriation made to Agency 26, Program 424, in Legislative Bill  
 3 425, Ninety-ninth Legislature, First Session, 2005"."

Senator Howard filed the following amendment to LB 713:  
 AM1573

(Amendments to Standing Committee amendments, AM1108)

- 1 1. Insert the following new section:
- 2 "Sec. 9. (1) For purposes of this section, offender
- 3 means a person who has been convicted of a criminal offense against
- 4 a minor or who has been convicted of an aggravated offense,
- 5 sexually violent offense, or other relevant offense that involved a
- 6 minor.
- 7 (2) An offender shall not reside within two thousand feet
- 8 of the real property comprising a public or nonpublic elementary or
- 9 secondary school or a child care facility. Any violation of this
- 10 subsection shall be a Class II misdemeanor.
- 11 (3) An offender residing within two thousand feet of the
- 12 real property comprising a public or nonpublic elementary or
- 13 secondary school or a child care facility does not violate
- 14 subsection (2) of this section if any of the following apply:
- 15 (a) The offender is required to serve a sentence at a
- 16 jail, prison, juvenile facility, or other correctional institution
- 17 or facility;
- 18 (b) The offender is subject to commitment as a mentally
- 19 disordered sex offender pursuant to sections 29-2911 to 29-2921;
- 20 (c) The offender has established a residence prior to
- 21 July 1, 2005, or a school or child care facility is newly located
- 22 on or after July 1, 2005; or
- 23 (d) The offender is a minor or a ward under a
- 1 guardianship."
- 2 2. On page 17, line 26, strike "13 and 17" and insert
- 3 "14 and 18".
- 4 3. On page 22, lines 13 and 14; page 27, line 25; and
- 5 page 28, line 7, strike "13" and insert "14".
- 6 4. Renumber the remaining sections accordingly.

### SELECT FILE

**LEGISLATIVE BILL 425.** The Thompson-Foley pending amendment, AM1600, found in this day's Journal, was renewed.

The Thompson-Foley amendment was adopted with 32 ayes, 0 nays, 11

present and not voting, and 6 excused and not voting.

Senator Byars offered the following amendment:

AM1555

(Amendments to Standing Committee amendments, AM0521)

- 1 1. On page 59, after line 20, insert:
- 2 "The unexpended balance of funds from the Nebraska Health
- 3 Care Cash Fund, up to \$2,318,581, existing on June 30, 2005, is
- 4 hereby reappropriated to fully fund rate equity in FY2005-06 and
- 5 FY2006-07 and shall only be used for such purpose. It is the
- 6 intent of the Legislature that a minimum of sixty-five percent of
- 7 each year's additional proceeds for rate equity be used to
- 8 compensate front-line staff."

Senator Byars moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

Senator Byars requested a roll call vote on his amendment.

Voting in the affirmative, 16:

Byars	Howard	McDonald	Schimek
Combs	Janssen	Pahls	Schrock
Flood	Jensen	Price	Stuhr
Heidemann	Kopplin	Redfield	Stuthman

Voting in the negative, 11:

Baker	Erdman	Pederson, D.	Synowiecki
Bourne	Kruse	Raikes	Thompson
Burling	Landis	Smith	

Present and not voting, 17:

Beutler	Cornett	Fischer	Johnson	Wehrbein
Brashear	Cudaback	Foley	Kremer	
Brown	Cunningham	Friend	Louden	
Connealy	Engel	Hudkins	Mines	

Excused and not voting, 5:

Aguilar	Chambers	Langemeier	Pedersen, Dw.	Preister
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The Byars amendment lost with 16 ayes, 11 nays, 17 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Erdman offered the following amendment:

AM1589

(Amendments to AM0521)

1 PURPOSE: To fund the County Property Tax Relief Program. Section  
 2 77-3618 states "There shall be no funds appropriated to the County  
 3 Property Tax Relief Program for fiscal years 2003-04 and 2004-05.  
 4 Distributions under the program will resume in fiscal year  
 5 2005-06.".

6 AMENDMENT:

7 1. Insert the following new section:  
 8 "Sec. 66. AGENCY NO. 16 -- DEPARTMENT OF REVENUE  
 9 Program No. 104 - County Property Tax Relief  
 10 

	FY2005-06	FY2006-07
11 GENERAL FUND	2,900,000	3,100,000
12 PROGRAM TOTAL	2,900,000	3,100,000

  
 13 There is included in the appropriation to this program  
 14 for FY2005-06 \$2,900,000 General Funds for state aid, which shall  
 15 only be used for such purpose. There is included in the  
 16 appropriation to this program for FY2006-07 \$3,100,000 General  
 17 Funds for state aid, which shall only be used for such purpose.".  
 18 2. Renumber the remaining sections and correct internal  
 19 references accordingly.

Senator Erdman moved for a call of the house. The motion prevailed with  
 26 ayes, 0 nays, and 23 not voting.

Senator Erdman requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Bourne	Cunningham	Foley	Kremer	Smith
Byars	Erdman	Friend	Louden	Stuhr
Combs	Fischer	Heidemann	McDonald	Stuthman
Connealy	Flood	Hudkins	Redfield	

Voting in the negative, 13:

Burling	Kruse	Pahls	Schimek	Wehrbein
Cornett	Landis	Pederson, D.	Synowiecki	
Howard	Mines	Raikes	Thompson	

Present and not voting, 12:

Baker	Brown	Janssen	Kopplin
Beutler	Cudaback	Jensen	Price
Brashear	Engel	Johnson	Schrock

Excused and not voting, 5:

Aguilar	Chambers	Langemeier	Pedersen, Dw. Preister
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The Erdman amendment lost with 19 ayes, 13 nays, 12 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Beutler offered the following amendment:

AM1598

(Amendments to Standing Committee amendments, AM0521)

- 1 1. Strike AM1567.
- 2 2. On page 122, line 18, strike "1,240,453 1,240,453"
- 3 and insert "3,740,453 3,740,453"; in line 20 strike "3,698,166
- 4 3,773,721" and insert "6,198,166 6,273,721"; and in lines 23 and
- 5 26 strike "\$1,107,944" and insert "\$3,607,944".

Senator Engel moved the previous question. The question is, "Shall the debate now close?"

Senator Engel moved for a call of the house. The motion prevailed with 25 ayes, 2 nays, and 22 not voting.

Senator Engel requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 21:

Baker	Flood	Kremer	Pahls	Stuthman
Brashear	Hudkins	Kruse	Pederson, D.	
Brown	Jensen	Landis	Price	
Cunningham	Johnson	McDonald	Raikes	
Engel	Kopplin	Mines	Smith	

Voting in the negative, 18:

Beutler	Connealy	Friend	Redfield	Thompson
Bourne	Cornett	Heidemann	Schimek	Wehrbein
Byars	Erdman	Janssen	Stuhr	
Combs	Foley	Louden	Synowiecki	

Present and not voting, 4:

Burling	Cudaback	Fischer	Schrock
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Excused and not voting, 6:

Aguilar	Howard	Pedersen, Dw.
Chambers	Langemeier	Preister

The motion to cease debate failed with 21 ayes, 18 nays, 4 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Beutler moved for a call of the house. The motion prevailed with 37 ayes, 3 nays, and 9 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 14:

Beutler	Erdman	Hudkins	Price	Synowiecki
Bourne	Friend	Louden	Redfield	Thompson
Byars	Heidemann	McDonald	Schimek	

Voting in the negative, 21:

Baker	Cunningham	Jensen	Pahls	Wehrbein
Brashear	Engel	Kopplin	Pederson, D.	
Brown	Fischer	Kremer	Schrock	
Cornett	Flood	Kruse	Smith	
Cudaback	Foley	Mines	Stuthman	

Present and not voting, 8:

Burling	Connealy	Johnson	Raikes
Combs	Janssen	Landis	Stuhr

Excused and not voting, 6:

Aguilar	Howard	Pedersen, Dw.
Chambers	Langemeier	Preister

The Beutler amendment lost with 14 ayes, 21 nays, 8 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Mines offered the following amendment:

AM1472

(Amendments to AM0521)

1 PURPOSE: Provide \$30,000 General Funds for FY2005-06 to study  
2 parking needs at the State Capitol.

3 AMENDMENT:

4 1. On page 110, line 20, strike "658,921" and insert  
5 "688,921"; and in line 23 strike "29,403,983" and insert  
6 "29,433,983".

7 2. On page 111, after line 8 insert:

8 "There is included in the appropriation to this program  
9 for FY2005-06 \$30,000 General Funds for a study of current and

10 future parking needs at the State Capitol."

The Mines amendment lost with 2 ayes, 24 nays, 15 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

### **AMENDMENT - Print in Journal**

Senators Redfield and Chambers filed the following amendment to LB 40:  
AM1562

(Amendments to AM1227)

- 1 1. On page 6, strike beginning with "privilege" in line
- 2 6 through "transferring" in line 7, show as stricken, and insert
- 3 "transfer of a".

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Cunningham asked unanimous consent to have his name added as cointroducer to LB 90. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were 30 fourth-grade students and teacher from St. Thomas-More School, Omaha; 31 fourth-grade students and teachers from Lewis and Clark Elementary School, South Sioux City; 22 fourth-grade students, teacher, and guests from HLC Home School in Bennington and Omaha; and 22 fourth-grade students and teacher from Ponca Elementary School, Omaha.

### **ADJOURNMENT**

At 10:01 p.m., on a motion by Senator Johnson, the Legislature adjourned until 9:00 a.m., Thursday, May 12, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**SEVENTY-EIGHTH DAY - MAY 12, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SEVENTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, May 12, 2005

**PRAYER**

The prayer was offered by Senator Wehrbein.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Engel and Langemeier who were excused; and Senators Beutler, Brown, Byars, Cornett, Heidemann, Landis, McDonald, Raikes, Schrock, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-seventh day was approved.

**REPORT**

The following report was received by the Legislature:

**Roads, Department of**

Board of Public Roads Classifications and Standards Minutes for March 2005

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of May 11, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Jacobson, Michael  
Jacobson, Michael

Plucker, Julia  
Scheels All Sports Inc.

Watson, Robert W.  
Stop the Violence Domestic Abuse Hotline (Withdrawn 05/10/2005)

### **MOTIONS - Approve Appointments**

Senator Cunningham moved the adoption of the Business and Labor Committee report for the confirmation of the following appointment(s) found on page 1455:

Commission of Industrial Relations  
Jeffrey L. Orr

Voting in the affirmative, 27:

Aguilar	Fischer	Johnson	Pahls	Smith
Baker	Flood	Kopplin	Pedersen, Dw.	Stuhr
Combs	Friend	Kremer	Pederson, D.	Stuthman
Connealy	Howard	Kruse	Price	
Cunningham	Janssen	Louden	Redfield	
Erdman	Jensen	Mines	Schimek	

Voting in the negative, 0.

Present and not voting, 9:

Bourne	Chambers	Foley	Preister	Wehrbein
Brashear	Cudaback	Hudkins	Synowiecki	

Excused and not voting, 13:

Beutler	Byars	Heidemann	McDonald	Thompson
Brown	Cornett	Landis	Raikes	
Burling	Engel	Langemeier	Schrock	

The appointment was confirmed with 27 ayes, 0 nays, 9 present and not voting, and 13 excused and not voting.

Senator Cunningham moved the adoption of the Business and Labor Committee report for the confirmation of the following appointment(s) found on page 1455:

Boiler Safety Code Advisory Board  
Charles Cole

Voting in the affirmative, 29:

Aguilar	Erdman	Johnson	Pahls	Schrock
Baker	Fischer	Kopplin	Pedersen, Dw.	Smith
Combs	Flood	Kremer	Pederson, D.	Stuhr
Connealy	Friend	Kruse	Price	Stuthman
Cudaback	Howard	Louden	Redfield	Synowiecki
Cunningham	Janssen	Mines	Schimek	

Voting in the negative, 0.

Present and not voting, 8:

Bourne	Chambers	Hudkins	Preister
Brashear	Foley	Jensen	Wehrbein

Excused and not voting, 12:

Beutler	Byars	Heidemann	McDonald
Brown	Cornett	Landis	Raikes
Burling	Engel	Langemeier	Thompson

The appointment was confirmed with 29 ayes, 0 nays, 8 present and not voting, and 12 excused and not voting.

Senator Bourne moved the adoption of the Judiciary Committee report for the confirmation of the following appointment(s) found on page 1455:

Correctional Services, Department of  
Robert Houston

Voting in the affirmative, 31:

Aguilar	Erdman	Kruse	Price	Stuthman
Baker	Flood	Louden	Raikes	Synowiecki
Bourne	Friend	McDonald	Redfield	Wehrbein
Chambers	Howard	Mines	Schimek	
Combs	Johnson	Pahls	Schrock	
Connealy	Kopplin	Pedersen, Dw.	Smith	
Cudaback	Kremer	Pederson, D.	Stuhr	

Voting in the negative, 0.

Present and not voting, 9:

Beutler	Cunningham	Foley	Janssen	Preister
Brashear	Fischer	Hudkins	Jensen	

Excused and not voting, 9:

Brown	Byars	Engel	Landis	Thompson
Burling	Cornett	Heidemann	Langemeier	

The appointment was confirmed with 31 ayes, 0 nays, 9 present and not voting, and 9 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 426.** E & R amendment, AM7097, found on page 1432, was adopted.

Senator McDonald withdrew her pending amendment, AM1363, found on page 1397.

Senator Jensen withdrew his pending amendment, AM1531, found on page 1456.

Senator D. Pederson renewed his pending amendment, AM1484, printed separately and referred to on page 1459.

The D. Pederson amendment was adopted with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

Senator Beutler renewed his pending amendment, AM1507, found on page 1494.

The Beutler amendment was adopted with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

Senator Chambers renewed his pending amendment, AM1574, found on page 1498.

Senator Foley offered the following amendment to the Chambers pending amendment:

FA268

Amend AM1574

1 1. On page 6, after line 20 insert the following new  
2 subsection:  
3 "(7) The University of Nebraska and postsecondary  
4 educational institutions having colleges of medicine in Nebraska  
5 and their affiliated research hospitals in Nebraska, as a condition  
6 of receiving any funds appropriated or transferred from the  
7 Nebraska Health Care Cash Fund, shall not engage in medical research  
that results in the destruction of a human embryo.

Senator Foley withdrew his amendment.

Senator Chambers moved for a call of the house. The motion prevailed with

23 ayes, 0 nays, and 26 not voting.

The Chambers amendment was adopted with 25 ayes, 11 nays, 6 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Senator Byars withdrew his pending amendment, AM1556, found on page 1499.

Senator Beutler moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Senator Foley requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 37 ayes, 5 nays, 1 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 427.** E & R amendment, AM7096, found on page 1432, was adopted.

Senator D. Pederson renewed his pending amendment, AM1475, found on page 1459.

Senator D. Pederson moved for a call of the house. The motion prevailed with 29 ayes, 1 nay, and 19 not voting.

Senator D. Pederson requested a roll call vote on his amendment.

Voting in the affirmative, 25:

Baker	Cudaback	Howard	Landis	Raikes
Brashear	Cunningham	Jensen	Mines	Schrock
Brown	Flood	Johnson	Pahls	Smith
Combs	Foley	Kremer	Pedersen, Dw.	Stuthman
Cornett	Heidemann	Kruse	Pederson, D.	Wehrbein

Voting in the negative, 15:

Beutler	Chambers	Hudkins	Preister	Schimek
Bourne	Erdman	Louden	Price	Synowiecki
Byars	Friend	McDonald	Redfield	Thompson

Present and not voting, 5:

Aguilar	Connealy	Fischer	Janssen	Stuhr
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Excused and not voting, 4:

Burling            Engel            Kopplin            Langemeier

The D. Pederson amendment was adopted with 25 ayes, 15 nays, 5 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Landis offered the following amendment:

AM1582

(Amendments to Standing Committee amendments, AM1288)

- 1 1. Insert the following new section:
- 2 "Sec. 2. The State of Nebraska declares that when it is
- 3 acting as an employer sexual orientation is irrelevant in personnel
- 4 matters and shall not be a criteria in determining just cause for
- 5 hiring, firing, promotion, demotion, and other personnel matters
- 6 covered by its employment contracts with its employees or other
- 7 employer-employee relationships.".
- 8 2. Renumber the remaining sections accordingly.

Senator Mines moved the previous question. The question is, "Shall the debate now close?"

Senator Mines moved for a call of the house. The motion prevailed with 24 ayes, 4 nays, and 21 not voting.

The motion to cease debate prevailed with 25 ayes, 4 nays, and 20 not voting.

Senator Landis requested a roll call vote on his amendment.

Voting in the affirmative, 24:

Aguilar	Chambers	Kopplin	Pahls	Redfield
Beutler	Connealy	Kruse	Pedersen, Dw.	Schimek
Bourne	Cudaback	Landis	Preister	Synowiecki
Brown	Howard	McDonald	Price	Thompson
Byars	Janssen	Mines	Raikes	

Voting in the negative, 15:

Baker	Fischer	Heidemann	Kremer	Stuhr
Brashear	Foley	Hudkins	Louden	Stuthman
Erdman	Friend	Jensen	Smith	Wehrbein

Present and not voting, 5:

Cornett	Flood	Johnson	Pederson, D.	Schrock
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Excused and not voting, 5:

Burling            Combs            Cunningham    Engel            Langemeier

The Landis amendment lost with 24 ayes, 15 nays, 5 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 614.** E & R amendment, AM7095, found on page 1432, was adopted.

Senator Schimek renewed her pending motion, found on page 1469, and asked unanimous consent to bracket LB 614 until June 3, 2005. No objections. So ordered.

**LEGISLATIVE BILL 683.** Senator Chambers renewed his pending amendment, AM1461, found on page 1388.

The Chambers amendment was adopted with 25 ayes, 2 nays, 16 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 683A.** Senator Schimek offered the following amendment:  
AM1571

(Amendments to AM1494)

- 1 1. On page 1, line 3, strike "\$8,262" and insert
- 2 "\$15,888"; in line 9 strike "\$7,500" and insert "\$14,500"; in line
- 3 10 strike "\$2,879" and insert "\$10,364"; in line 16 strike "\$2,500"
- 4 and insert "\$9,000"; in line 17 strike "\$5,758" and insert
- 5 "\$10,939"; in line 23 strike "\$5,000" and insert "\$9,500"; and in
- 6 line 24 strike "\$8,637" and insert "\$17,752".
- 7 2. On page 2, line 6, strike "\$7,500" and insert
- 8 "\$15,500"; in line 7 strike "\$8,572" and insert "\$12,929"; in line
- 9 13 strike "\$7,500" and insert "\$11,500"; in line 14 strike "\$8,637"
- 10 and insert "\$15,545"; in line 20 strike "\$7,500" and insert
- 11 "\$13,500"; in line 21 strike "\$28,788" and insert "\$71,969"; and in
- 12 line 27 strike "\$25,000" and insert "\$62,500".

**SPEAKER BRASHEAR PRESIDING**

**SENATOR CUDABACK PRESIDING**

Senator Erdman moved the previous question. The question is, "Shall the

debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

Senator Schimek moved for a call of the house. The motion prevailed with 32 ayes, 1 nay, and 16 not voting.

The Schimek amendment was adopted with 29 ayes, 3 nays, 12 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for engrossment.

### **GENERAL FILE**

**LEGISLATIVE BILL 90A.** Title read. Considered.

Senator Chambers renewed his pending amendment, AM1528, found on page 1459.

### **SPEAKER BRASHEAR PRESIDING**

Senator Chambers withdrew his amendment.

Senator Wehrbein renewed his pending amendment, AM1586, found on page 1487.

The Wehrbein amendment was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

### **RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR 97 was adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 97.

### **SELECT COMMITTEE REPORTS**

#### **Enrollment and Review**

#### **Correctly Engrossed**

The following bills were correctly engrossed: LBs 425, 426, and 427.

ER9034

## Enrollment and Review Change to LB 425

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Standing Committee amendments, AM0521:

a. On page 19, line 25, "866,524,661" and all amendments thereto have been struck and "870,734,644" inserted; and

b. On page 20, line 1, "1,114,230,171" and all amendments thereto have been struck and "1,118,440,154" inserted; and in line 3 "\$866,524,661" and all amendments thereto have been struck and "\$870,734,644" inserted.

2. In the E & R Amendments, AM7098, on page 2, line 3, "the first" has been inserted after "with".

ER9035

## Enrollment and Review Change to LB 426

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Beutler amendment, AM1507:

a. Sections 1, 13, and 14 have been renumbered as sections 10, 15, and 16 respectively;

b. On page 4, the stricken matter beginning with the first "the" in line 25 through "Fund" in line 26 has been reinstated; and

c. On page 5, the matter beginning with "the" in line 2 through "fund" in line 3 has been struck and shown as stricken; and in line 4 "act" has been struck, shown as stricken, and "Municipal Infrastructure Redevelopment Fund Act" inserted.

2. In the E & R amendments, AM7097, on page 1, line 8, "72-1005, 77-2602, 77-27,137.01, 81-15,101.01, 81-15,104, 81-15,113.01," has been inserted after the second comma; in line 9 a comma has been inserted after "71-7611"; and in line 15 "contingency" has been struck and "certain" inserted.

ER9036

## Enrollment and Review Change to LB 427

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, line 1, "section" has been struck and "sections 81-1201.21 and" inserted; and in line 4 "section" has been struck and "sections" inserted.

**LEGISLATIVE BILL 312.** Placed on Select File as amended.

(E & R amendment, AM7100, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 90.** Placed on Select File as amended.

(E & R amendment, AM7099, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Michael Flood, Chairperson

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 332A.** Introduced by McDonald, 41.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 332, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

### **STANDING COMMITTEE REPORTS Government, Military and Veterans Affairs**

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Brenda L. Decker - Chief Information Officer

VOTE: Aye: Senators Burling, Fischer, Pahls, Schimek, Wehrbein. Nay: None. Absent: Senators Brown, Langemeier, Mines.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Kim Quandt - Accountability and Disclosure Commission

VOTE: Aye: Senators Burling, Fischer, Pahls, Schimek, Wehrbein. Nay: None. Absent: Senators Brown, Langemeier, Mines.

(Signed) DiAnna R. Schimek, Chairperson

### **AMENDMENTS - Print in Journal**

Senator Stuhr filed the following amendment to LR 12CA:  
AM1542

- 1 1. Insert the following new section:
- 2 "Sec. 2. At the general election in November 2006 the
- 3 following proposed amendment to the Constitution of Nebraska shall

- 4 be submitted to the electors of the State of Nebraska for approval  
5 or rejection:
- 6 To amend Article III, section 7:
- 7 III-7 At the general election to be held in November  
8 1964, one-half the members of the Legislature, or as nearly thereto  
9 as may be practicable, shall be elected for a term of four years  
10 and the remainder for a term of two years, and thereafter all  
11 members shall be elected for a term of four years, with the manner  
12 of such election to be determined by the Legislature. When the  
13 Legislature is redistricted, the members elected prior to the  
14 redistricting shall continue in office, and the law providing for  
15 such redistricting shall where necessary specify the newly  
16 established district which they shall represent for the balance of  
17 their term. Each member shall be nominated and elected in a  
18 nonpartisan manner and without any indication on the ballot that he  
19 or she is affiliated with or endorsed by any political party or  
20 organization. Each member of the Legislature shall receive a  
21 salary of not to exceed one thousand dollars per month during the  
22 term of his or her office. In addition to his or her salary, each  
23 member shall receive an amount equal to his or her actual expenses  
24 in traveling by the most usual route once to and returning from  
1 each regular or special session of the Legislature. Members of the  
2 Legislature shall ~~receive no pay nor perquisites other than his or~~  
3 ~~her salary and expenses, and employees of the Legislature shall~~  
4 ~~receive no compensation other than their salary or per diem be~~  
5 eligible to participate in state employee benefit programs.".
- 6 2. On page 2, after line 22 insert:
- 7 "A constitutional amendment to allow the members of the  
8 Legislature to participate in state employee benefit  
9 programs.  
10 For  
11 Against."
- 12 3. Renumber the remaining section accordingly.

Senator Stuhr filed the following amendment to LR 12CA:  
AM1541

- 1 1. Strike beginning with page 1, line 7, through page 2,  
2 line 14, and insert the following:
- 3 "To amend Article III, sections 7 and 19:
- 4 III-7 At the general election to be held in November  
5 1964, one-half the members of the Legislature, or as nearly thereto  
6 as may be practicable, shall be elected for a term of four years  
7 and the remainder for a term of two years, and thereafter all  
8 members shall be elected for a term of four years, with the manner  
9 of such election to be determined by the Legislature. When the  
10 Legislature is redistricted, the members elected prior to the  
11 redistricting shall continue in office, and the law providing for  
12 such redistricting shall where necessary specify the newly  
13 established district which they shall represent for the balance of

14 their term. Each member shall be nominated and elected in a  
15 nonpartisan manner and without any indication on the ballot that he  
16 or she is affiliated with or endorsed by any political party or  
17 organization. ~~Each~~ Until January 3, 2007, each member of the  
18 Legislature shall receive a salary of not to exceed one thousand  
19 dollars per month during the term of his or her office. Beginning  
20 January 3, 2007, each member of the Legislature shall receive an  
21 annual salary during his or her term of office equal to twenty-four  
22 thousand dollars in 2007 and increased annually thereafter by the  
23 change in the prior calendar year in a consumer price index  
24 designated by law, not to exceed four percent. In addition to his  
1 or her salary, each member shall receive an amount equal to his or  
2 her actual expenses in traveling by the most usual route once to  
3 and returning from each regular or special session of the  
4 Legislature. Members of the Legislature shall receive no pay nor  
5 perquisites other than his or her salary and expenses, and  
6 employees of the Legislature shall receive no compensation other  
7 than their salary or per diem.

8 III-19 The Legislature shall never grant any extra  
9 compensation to any public officer, agent, or servant after the  
10 services have been rendered nor to any contractor after the  
11 contract has been entered into, except that retirement benefits of  
12 retired public officers and employees may be adjusted to reflect  
13 changes in the cost of living and wage levels that have occurred  
14 subsequent to the date of retirement.

15 Except as otherwise provided in section 7 of this  
16 Article, the ~~The~~ compensation of any public officer, including any  
17 officer whose compensation is fixed by the Legislature, shall not  
18 be increased or diminished during his or her term of office, except  
19 that when there are members elected or appointed to ~~the Legislature~~  
20 ~~or~~ the judiciary, or officers elected or appointed to a board or  
21 commission having more than one member, and the terms of such  
22 members commence and end at different times, the compensation of  
23 all members ~~of the Legislature~~, of the judiciary; or of such board  
24 or commission may be increased or diminished at the beginning of  
25 the full term of any member thereof.

26 Nothing in this section shall prevent local governing  
27 bodies from reviewing and adjusting vested pension benefits  
1 periodically as prescribed by ordinance.

2 The surviving spouse of any retired public officer,  
3 agent, or servant, who has retired under a pension plan or system,  
4 shall be considered as having pensionable status and shall be  
5 entitled to the same benefits which may, at any time, be provided  
6 for or available to spouses of other public officers, agents, or  
7 servants who have retired under such pension plan or system at a  
8 later date, and such benefits shall not be prohibited by the  
9 restrictions of this section or of Article XIII, section 3 of the  
10 Constitution of Nebraska."

11 2. On page 2, strike beginning with "change" in line 18

12 through line 20 and insert "provide for an annual salary for  
13 members of the Legislature equal to twenty-four thousand dollars in  
14 2007 and increased annually thereafter by the change in the prior  
15 calendar year in a consumer price index designated by law, not to  
16 exceed four percent.".

Senator Jensen filed the following amendment to LR 12CA:  
AM1050

1 1. On page 2, lines 5 through 7, strike the new matter  
2 and reinstate the stricken matter; in line 7 after "office" insert  
3 "until changed by the Legislature subject to Article III, section  
4 19, of this Constitution, not to exceed the average wage paid to  
5 Nebraska citizens"; and strike beginning with "change" in line 18  
6 through line 20 and insert "authorize the Legislature to establish  
7 the salary of members of the Legislature not to exceed the average  
8 wage paid to Nebraska citizens.".

### **VISITORS**

Visitors to the Chamber were 25 third-grade students and teacher from Trinity Lutheran School, Fremont; 24 fourth-grade students and teacher from Northern Hills Elementary School, Norfolk; 76 fourth-grade students and teachers from Grace Abbott Elementary School, Omaha; and 54 fourth-grade students and teachers from West Point.

### **ADJOURNMENT**

At 12:56 p.m., on a motion by Senator Jensen, the Legislature adjourned until 10:00 a.m., Tuesday, May 17, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**SEVENTY-NINTH DAY - MAY 17, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SEVENTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, May 17, 2005

**PRAYER**

The prayer was offered by Senator Smith.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Combs, Engel, and Mines who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-eighth day was approved.

**SELECT COMMITTEE REPORTS  
Enrollment and Review**

**LEGISLATIVE BILL 90A.** Placed on Select File.

**Correctly Engrossed**

The following bills were correctly engrossed: LBs 683 and 683A.

(Signed) Michael Flood, Chairperson

**MESSAGE FROM THE GOVERNOR**

May 13, 2005

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 82, 161, and 682 were received in my office on May 9, 2005.

These bills were signed by me and delivered to the Secretary of State on May 13, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

### **ATTORNEY GENERAL'S OPINION**

#### Opinion 05008

DATE: May 12, 2005

SUBJECT: Sale or Lease of the Hastings Correctional Center to a Private Contractor

REQUESTED BY: Carroll Burling, Senator  
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General  
Lynn A. Melson, Assistant Attorney General

You have requested our opinion whether current state statutes "allow the state to lease or sell HCC (Hastings Correctional Center) to a private contractor for purposes of incarceration." You note that it was recently announced that HCC will officially close on June 1, 2005 and the facility will then be vacant. It is our understanding that HCC was closed as a facility to house state inmates in 2002, but has been used pursuant to a contract with the federal government as a holding center for detained illegal immigrants.

The operation, leasing and construction of Nebraska prisons by private contractors is governed by the Private Prison Contracting Act. Neb. Rev. Stat. §§ 47-801 to 47-807 (2004). This Act, enacted in 2001, was intended to regulate all private prisons in Nebraska. Committee Records on LB 751, 97th Neb. Leg., 1st Sess. 2-4 (March 1, 2001). (LB 751 was later amended into LB 85). The Act authorizes the Department of Correctional Services (DCS) to provide for incarceration at facilities other than those operated by DCS, to contract for the operation of correctional institutions of the department by private prison contractors and to seek approval, when there is demonstrated need, for the construction of correctional institutions by private prison contractors. Neb. Rev. Stat. § 47-802(1), (2) and (3).

We note that the Act reserves the use of private correctional facilities to DCS, specifically withholding such authority from counties and other political subdivisions. Neb. Rev. Stat. § 47-806. The Act further provides

that a "private prison contractor shall not accept or house federal inmates or inmates from another state." Neb. Rev. Stat. § 47-805. You have inquired about leasing or selling HCC to a private contractor. With regard to leasing Neb. Rev. Stat. § 47-802 (11) specifically provides as follows:

The Director of Administrative Services may lease real property and improvements on such property to a private prison contractor in conjunction with a contract for private management of a state correctional institution located or to be built on the property. The lease may be entered into for a two-year term renewable at the sole option of the State of Nebraska.

Therefore, if the State determines there is a need to again operate HCC as a state correctional institution, this statute would allow the State to lease HCC to a private prison contractor who would then manage the state correctional institution subject to the restrictions of the Private Prison Contracting Act.

If it is determined that HCC is no longer needed by DCS for use as a state correctional institution and the facility is vacant, the sale of the facility may fall within the purview of Neb. Rev. Stat. §§ 72-811 through 72-817 (2003) which concern vacant buildings and excess lands. These statutes create the Vacant Buildings and Excess Lands Committee which is authorized to declare a building or land to be vacant or excess and may then dispose of the building or land "through sale, lease, demolition or otherwise." Neb. Rev. Stat. § 72-813. However, while these statutes set out the procedure for sale or lease of state property under these circumstances, it is doubtful that the property could be sold to a private contractor for incarceration purposes as it appears that private prisons in Nebraska are limited to those which are governed by the Private Prison Contracting Act discussed above. While that Act itself does not expressly prohibit private prisons other than those operated through a contract with DCS, the Act does not allow a county or other political subdivision to contract with a private prison contractor and prohibits private prison contractors from accepting federal inmates or inmates from another state. Neb. Rev. Stat. §§ 47-805 and 47-806. Therefore, the net effect of the Act is to preclude private prisons other than those operating under a contract with DCS. In our view, after a determination by the Committee that the building is vacant, HCC could only be sold or leased to a private entity for purposes other than a private prison.

Sincerely,  
JON BRUNING  
Attorney General  
(Signed) Lynn A. Melson  
Assistant Attorney General

#### **AMENDMENT - Print in Journal**

Senator Beutler filed the following amendment to LB 116:  
AM1462

(Amendments to Standing Committee amendments, AM1130)

- 1 1. Insert the following new section:
- 2 "Sec. 11. Section 43-2911, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 43-2911. The costs of the mediation or remediation
- 5 process shall be paid by the parties on an equal-share basis
- 6 according to each party's ability to pay or on a sliding fee scale.
- 7 If a court refers a case to court-based mediation or remediation,
- 8 there shall be no fee."
- 9 2. On page 3, line 6, after "(1)" insert "For purposes
- 10 of this section:
- 11 (a) Abuse has the same meaning as in section 42-903;
- 12 (b) Family or household member has the same meaning as in
- 13 section 42-903;
- 14 (c) Joint legal custody means shared authority and
- 15 responsibility of the parents for making fundamental decisions
- 16 regarding the child's welfare, including choices regarding
- 17 education and health; and
- 18 (d) Joint physical custody means shared authority and
- 19 responsibility of the parents regarding the child's place of
- 20 residence and the exertion of continuous physical custody by both
- 21 parents over the child for significant periods of time.
- 22 (2)"; and in line 16 after "ongoing" insert
- 23 "substantial".
- 1 3. On page 9, line 13, after "(6)" insert "(a) When
- 2 determining custody arrangements of a minor child, the court shall
- 3 give first consideration to placing the minor child in joint legal
- 4 custody. The custody determination of the court shall include both
- 5 the determination of legal custody of the child and the
- 6 determination of physical custody of the child as separate and
- 7 independent issues;
- 8 (b)", after "joint" insert "legal", and after "custody"
- 9 insert "only"; in line 15 after "joint" insert "legal"; and in line
- 10 18 after the period insert "The court need not consider joint legal
- 11 custody or joint physical custody if it finds credible evidence of
- 12 abuse inflicted upon any family or household member; and
- 13 (c) A decree ordering joint legal custody or joint
- 14 physical custody shall specify each parent's separate or shared
- 15 role and responsibility to make decisions regarding the minor
- 16 child. A decree may include a parenting plan developed pursuant to
- 17 the Parenting Act."
- 18 4. Renumber the remaining sections and correct internal
- 19 references accordingly and correct the operative date and repealer
- 20 provisions so that the section added by this amendment becomes
- 21 operative three calendar months after adjournment of this
- 22 legislative session.

**SELECT FILE**

**LEGISLATIVE BILL 364.** E & R amendment, AM7094, found on page 1408, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 312.** E & R amendment, AM7100, printed separately and referred to on page 1513, was adopted.

Senator Beutler asked unanimous consent to withdraw his pending amendment, FA255, found on page 1437, and replace it with his substitute amendment, AM1623. No objections. So ordered.

AM1623

(Amendments to E & R amendments, AM7100)

- 1 1. Insert the following new section:
- 2 "Sec. 26. Distressed area means a municipality that has
- 3 had a population decrease between the two most recent federal
- 4 decennial censuses, an unincorporated area within a county that has
- 5 had a population decrease between the two most recent federal
- 6 decennial censuses, a designated federal enterprise zone, and a
- 7 census tract that based on the most recent federal decennial census
- 8 data available has less than eighty percent of the statewide per
- 9 capita income.".
- 10 2. On page 50, line 15, strike "52" and insert "53"; and
- 11 in line 24 strike "39" and insert "40".
- 12 3. On page 64, line 16, after "employees" insert "if the
- 13 average wage of the new employees equals at least seventy percent
- 14 of the Nebraska average annual wage for the year of application or,
- 15 for a project in a distressed area, at least sixty percent of the
- 16 Nebraska average annual wage for the year of application"; and in
- 17 line 18 after "least" insert "eighty-five percent of the Nebraska
- 18 average annual wage for the year of application or, for a project
- 19 in a distressed area, at least".
- 20 4. On page 65, line 4, after "least" insert "seventy
- 21 percent of the Nebraska average annual wage for the year of
- 22 application or, for a project in a distressed area, at least".
- 23 5. Renumber the remaining sections and correct internal
- 1 references accordingly.

Senator Beutler moved for a call of the house. The motion prevailed with 15 ayes, 1 nay, and 33 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Beutler	Fischer	Kruse	Price	Thompson
Byars	Howard	Louden	Raikes	Wehrbein
Chambers	Janssen	Pedersen, Dw.	Schimek	
Engel	Kopplin	Preister	Synowiecki	

Voting in the negative, 9:

Burling	Cornett	Erdman	Langemeier	Smith
Connealy	Cunningham	Flood	Redfield	

Present and not voting, 19:

Aguilar	Brown	Heidemann	Landis	Schrock
Baker	Cudaback	Jensen	McDonald	Stuhr
Bourne	Foley	Johnson	Pahls	Stuthman
Brashear	Friend	Kremer	Pederson, D.	

Excused and not voting, 3:

Combs	Hudkins	Mines
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The Beutler amendment lost with 18 ayes, 9 nays, 19 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Beutler asked unanimous consent to withdraw his pending amendment, FA256, found on page 1437, and replace it with his substitute amendment, AM1622. No objections. So ordered.

AM1622

(Amendments to E & R amendments, AM7100)

- 1 1. Insert the following new section:
- 2 "Sec. 53. (1) On January 1, 2006, and each January 1
- 3 thereafter, an employer shall submit on a form and in a manner
- 4 approved by the Tax Commissioner:
- 5 (a) The amount spent by the employer in the year
- 6 immediately preceding the previous calendar year on health
- 7 insurance costs in the state; and
- 8 (b) The percentage of payroll that was spent by the
- 9 employer in the year immediately preceding the previous calendar
- 10 year on health insurance costs in the state.
- 11 (2) The Tax Commissioner shall adopt and promulgate rules
- 12 and regulations that specify the information that an employer shall
- 13 submit under this section.
- 14 (3) The information required shall be in a report signed
- 15 by the principal executive officer or an individual performing a
- 16 similar function and include an affidavit under penalty of perjury
- 17 that the information was reviewed by the signing officer and is
- 18 true to the best of the signing officer's knowledge, information,

19 and belief.

20 (4) When calculating the percentage of payroll under  
21 subsection (1) of this section, an employer may exempt wages paid  
22 to any employee beyond the amount taxable for federal Social  
23 Security purposes and wages paid to an employee who is enrolled in  
1 or eligible for medicare.

2 (5) An employer that does not spend up to six percent of  
3 the total wages paid to employees in the state on health insurance  
4 costs shall pay to the Tax Commissioner an amount equal to the  
5 difference between what the employer spends for health insurance  
6 costs and an amount equal to eight percent of the total wages paid  
7 to employees in the state. An employer may not deduct any payment  
8 made under this subsection from the wages of an employee. An  
9 employer shall make the payment required under this section to the  
10 Tax Commissioner on a periodic basis as determined by the Tax  
11 Commissioner. The Tax Commissioner shall remit any money collected  
12 under this subsection to the State Treasurer for credit to the Fair  
13 Share Health Care Fund, which is created. Any money in the fund  
14 available for investment shall be invested by the state investment  
15 officer pursuant to the Nebraska Capital Expansion Act and the  
16 Nebraska State Funds Investment Act.

17 (6) Failure to report in accordance with this section  
18 shall result in the imposition by the Tax Commissioner of a civil  
19 penalty of two hundred fifty dollars for each day that the report  
20 is not timely filed.

21 (7) Failure to make the payment required under this  
22 section shall result in the imposition by the Tax Commissioner of a  
23 civil penalty of five thousand dollars for each day the payment or  
24 any portion thereof is late.

25 (8) For purposes of this section:

26 (a) Employee means all individuals who are Nebraska  
27 employees and who are employed for twenty or more hours per week  
1 directly by an employer;

2 (b) Employer means any employer receiving tax credits or  
3 incentives under the Nebraska Advantage Act; and

4 (c) Health insurance costs means the amount paid by an  
5 employer to provide health care or health insurance to employees in  
6 the state to the extent deductible by the employer under federal  
7 tax law. Health insurance costs includes payments for medical  
8 care, prescription drugs, vision care, medical savings accounts,  
9 and any other costs to provide health benefits as defined in  
10 section 213(d) of the Internal Revenue Code of 1986.

11 (9) This section applies to an employer beginning in the  
12 calendar year when tax credits or incentives are first received  
13 under the act and for the following fifteen years.

14 (10) This section does not apply to an employer whose  
15 health care benefits are substantially comparable, as determined by  
16 the Tax Commissioner, to those offered to employees of the State of  
17 Nebraska for calendar year 2004 if the employer is paying at least

18 seventy-nine percent of the cost of such benefits.

19 (11) The Tax Commissioner may adopt and promulgate rules  
 20 and regulations to carry out this section."

21 2. On page 50, line 15, strike "52" and insert "53".

22 3. Renumber the remaining sections and correct internal  
 23 references accordingly.

Senator Beutler moved for a call of the house. The motion prevailed with 24 ayes, 1 nay, and 24 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 14:

Aguilar	Howard	Louden	Price	Synowiecki
Beutler	Johnson	Pedersen, Dw.	Raikes	Thompson
Chambers	Kruse	Preister	Schimek	

Voting in the negative, 12:

Baker	Connealy	Kremer	Smith
Brown	Flood	Langemeier	Stuthman
Burling	Friend	Redfield	Wehrbein

Present and not voting, 20:

Bourne	Cunningham	Foley	Kopplin	Pahls
Brashear	Engel	Heidemann	Landis	Pederson, D.
Byars	Erdman	Janssen	McDonald	Schrock
Cudaback	Fischer	Jensen	Mines	Stuhr

Excused and not voting, 3:

Combs	Cornett	Hudkins
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The Beutler amendment lost with 14 ayes, 12 nays, 20 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Beutler asked unanimous consent to withdraw his pending amendment, FA257, found on page 1437, and replace it with the Synowiecki substitute amendment, AM1609. No objections. So ordered.  
 AM1609

(Amendments to E & R amendments, AM7100)

- 1 1. On page 64, line 20, before the period insert "or if
- 2 the average wage of the new employees equals at least sixty percent
- 3 of the Nebraska average annual wage and the taxpayer offers to pay
- 4 at least fifty percent of the premium for a health benefit plan for

5 all new employees for the year of application"; and in line 24  
 6 before the period insert "or if the average wage of the new  
 7 employees equals at least seventy-five percent of the Nebraska  
 8 average annual wage and the taxpayer offers to pay at least fifty  
 9 percent of the premium for a health benefit plan for all new  
 10 employees for the year of application".  
 11 2. On page 65, line 1, strike "average" and insert ";  
 12 (a) Average"; in line 5 strike "and" and insert ";  
 13 (b) Health benefit plan has the same meaning as in  
 14 section 44-5242;  
 15 (c)"; and in line 7 before the period insert "; and  
 16 (d) Premium means all money paid by the taxpayer and new  
 17 employee as a condition of receiving coverage under a health  
 18 benefit plan, including any fees or other contributions associated  
 19 with the health benefit plan".

Senator Synowiecki moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

Senator Synowiecki requested a roll call vote on his amendment.

Voting in the affirmative, 20:

Aguilar	Cudaback	Heidemann	Kruse	Price
Beutler	Cunningham	Howard	Louden	Schimek
Byars	Engel	Janssen	Pedersen, Dw.	Synowiecki
Chambers	Fischer	Kopplin	Preister	Thompson

Voting in the negative, 2:

Baker	Smith
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Present and not voting, 22:

Bourne	Erdman	Johnson	Pahls	Stuhr
Brashear	Flood	Kremer	Pederson, D.	Wehrbein
Brown	Foley	Landis	Raikes	
Burling	Friend	Langemeier	Redfield	
Connealy	Jensen	Mines	Schrock	

Excused and not voting, 5:

Combs	Cornett	Hudkins	McDonald	Stuthman
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The Synowiecki amendment lost with 20 ayes, 2 nays, 22 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

### **AMENDMENT - Print in Journal**

Senator Schimek filed the following amendment to LB 566:  
(Amendment, AM0993, is printed separately and available in the Bill Room, Room 1104.)

### **STANDING COMMITTEE REPORT** **General Affairs**

The General Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Robert E. Logsdon - Nebraska Liquor Control Commission

VOTE: Aye: Senators Connealy, Fischer, Friend, Janssen, Landis. Nay: None. Absent: Senators Cornett, Erdman, Wehrbein.

(Signed) Ray Janssen, Chairperson

### **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 117.** Introduced by Foley, 29.

**PURPOSE:** The purpose of this resolution is to study employee wage collection after the close of each pay period. The study shall specifically focus on the length of time allowable under current law in which an employer shall remit wages after the close of each pay period. The widespread use of electronic technologies suggests that it may be possible to require an acceleration of the payment of wages after the close of pay periods without causing undue hardship to employers.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Business and Labor Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 118.** Introduced by Schrock, 38.

**PURPOSE:** To study issues relating to earmarking of personal property tax revenue from irrigation equipment, pumps, motors, pipes, and pivots for natural resources districts.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 119.** Introduced by Schrock, 38.

PURPOSE: The Department of Natural Resources has jurisdiction over all dams in high hazard locations regardless of size or storage capacity and all other dams having a height of 25 feet or more or having a storage capacity of 50 acre-feet or more. The department insures that all jurisdictional dams are designed properly, taking into account downstream improvements which may directly impact on the assigned hazard classification of the dam and issues storage and use permits as appropriate. Nebraska has over 2,000 permitted dams built to the appropriate hazard classification at the time of construction with approximately 1,700 low-hazard dams, 250 significant hazard dams, and 100 high hazard dams. The construction of certain improvements, such as houses, businesses, roads, etc., downstream of existing dams can result in an upgrade of the hazard classification by the department if those improvements are in the area that would be flooded (breach inundation area) should the dam fail. Upgrading of the hazard classification by the department will result in an order to the owner of the dam requiring the owner of the dam to take "necessary action" to correct deficiencies and defects in order that the dam be operated and maintained in a safe condition. The Natural Resources Committee of the Legislature should study this issue in conjunction with the department, natural resources districts, the Nebraska Association of County Officials, the League of Municipalities, and others to develop a solution to keep downstream improvements from being located in potentially hazardous locations downstream of existing dams.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 120.** Introduced by Schrock, 38.

PURPOSE: The purpose of this study is to examine the concept of

developing special hunting permits for big game and determine the impacts of such permits.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 121.** Introduced by Schrock, 38.

PURPOSE: To examine the Livestock Waste Management Act and the federal Concentrated Animal Feeding Operations rules and regulations and their economic impact on the small and medium-sized animal operations in the State of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 122.** Introduced by Schrock, 38.

PURPOSE: The purpose of this study is to examine livestock operation transfers, including, but not limited to, notice of such transfers.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 123.** Introduced by Heidemann, 1.

WHEREAS, Michael Keslar of Syracuse, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement of rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot; Second Class; First Class; Star; Life; and finally, Eagle. Throughout his Scouting experience, Michael Keslar has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. For his Eagle Scout community service project, Michael designed and built enclosed dugouts at the Syracuse Elementary School ball field, a field which is widely used by all ages; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Michael Keslar on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Michael Keslar.

Laid over.

**LEGISLATIVE RESOLUTION 124.** Introduced by Heidemann, 1.

WHEREAS, Cody Busekist of Syracuse, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement of rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot; Second Class; First Class; Star; Life; and finally, Eagle. Throughout his Scouting experience, Cody Busekist has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. For his Eagle Scout community service project, Cody developed and led a project to build a scoreboard at a local baseball field used daily by the youth of Syracuse; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Cody Busekist on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Cody Busekist.

Laid over.

**LEGISLATIVE RESOLUTION 125.** Introduced by Friend, 10; Erdman, 47; Foley, 29; Jensen, 20; Langemeier, 23; Redfield, 12; Schimek, 27.

WHEREAS, in October 1879 the Nebraska band program was founded within the military department of the University of Nebraska; and

WHEREAS, under the direction of Samuel B. Hohman, the University of Nebraska Military Cadet Band made its first official performance in April 1880 at the military department's annual dress parade; and

WHEREAS, in 1893 the first "halftime" show was performed during a football game at the suggestion of the university's military commander, Lt. John J. Pershing; and

WHEREAS, following World War I, when the university's military department was reorganized into the Reserve Officer Training Corps, the band became known as the R. O. T. C. Band; and

WHEREAS, during Billy Quick's tenure as director from 1918 to 1937, the band began performing as a concert ensemble as well as marching unit; and

WHEREAS, in 1927 John Philip Sousa presented a silver cup to the Nebraska band as a reward for attaining the United States War Department's "Blue Star Rating" for meeting exemplary standards; and

WHEREAS, in 1938 the band became independent of the university's military department; and

WHEREAS, Band Day flourished under the direction of director Donald Lenz and included high school bands from across Nebraska who performed at halftime of one of the Nebraska football games each year from the 1920s until 1971; and

WHEREAS, director Jack R. Snider introduced the solo twirler to the band in 1961 and Dr. Robert A. Fought ushered women into the band in 1974 through Title IX and also introduced the flag line to audiences in 1975; and

WHEREAS, in 1996 the Cornhusker Marching Band was the recipient of the prestigious Sudler Trophy presented by the John Philip Sousa Foundation for excellence and leadership in collegiate marching bands; and

WHEREAS, the University of Nebraska's marching and concert ensembles have performed in front of national and international audiences; and

WHEREAS, the University of Nebraska Band Program has provided superior musical experiences and life-long fellowship for generations of student musicians and has served as a steadfast exemplar of school spirit and tradition throughout its 125-year history; and

WHEREAS, that through the leadership of many directors and the involvement of countless student musicians, the University of Nebraska Band Program celebrates its 125th Anniversary.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature celebrates the history and accomplishments of one

of the finest collegiate band programs in the country.

2. That a copy of this resolution be sent to the University of Nebraska-Lincoln School of Music.

Laid over.

**LEGISLATIVE RESOLUTION 126.** Introduced by Raikes, 25.

WHEREAS, Ryan Shoemaker, son of Dave and Karen Shoemaker, of Lincoln, Nebraska, and David Sievers, son of LeRoy and Jane Sievers, also of Lincoln, have completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout their Scouting experience, Ryan Shoemaker and David Sievers have learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council. Ryan Shoemaker, for his Eagle Scout community service project, organized a benefit concert for the Lincoln Food Bank that was called the "PB&J Bash". David Sievers, for his Eagle Scout community service project, developed the outdoor sports area for the East Lincoln Christian Church; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Ryan Shoemaker and David Sievers received the rank of Eagle Scout, thereby, through their hard work and perserverance, joining other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Ryan Shoemaker and David Sievers on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Ryan Shoemaker and David Sievers.

Laid over.

**LEGISLATIVE RESOLUTION 127.** Introduced by Cornett, 45.

WHEREAS, Mark Borytsky, Jr., has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of

leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Mark Borytsky, Jr., has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Mark Borytsky, Jr., on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Mark Borytsky, Jr.

Laid over.

**LEGISLATIVE RESOLUTION 128.** Introduced by Cornett, 45.

WHEREAS, Doug McAcy has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Doug McAcy has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Doug McAcy on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Doug McAcy.

Laid over.

**LEGISLATIVE RESOLUTION 129.** Introduced by Cornett, 45.

WHEREAS, Joshua Brown has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement

rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Joshua Brown has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Joshua Brown on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Joshua Brown.

Laid over.

**LEGISLATIVE RESOLUTION 130.** Introduced by Cornett, 45.

WHEREAS, Grant Coultas has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Grant Coultas has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Grant Coultas on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Grant Coultas.

Laid over.

**LEGISLATIVE RESOLUTION 131.** Introduced by Cornett, 45.

WHEREAS, George Lamperti III has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, George Lamperti III has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, George's Eagle Project involved improvements to the parish library of St. Mary's Catholic Church, including waterproofing and the building of new bookcases.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates George Lamperti III on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to George Lamperti III.

Laid over.

#### **LEGISLATIVE RESOLUTION 132.** Introduced by Cornett, 45.

WHEREAS, Scott Johnson has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Scott Johnson has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Scott's Eagle Project involved improvements to the Senior High Room at St. James United Methodist Church, including repairing and repainting walls and installing new furnishings.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Scott Johnson on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Scott Johnson.

Laid over.

**LEGISLATIVE RESOLUTION 133.** Introduced by Cornett, 45.

WHEREAS, Preston Schweiger has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Preston Schweiger has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Preston's Eagle Project involved scraping and repainting the fitness course, shelters, and tables in the city park in the Golden Hills neighborhood.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Preston Schweiger on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Preston Schweiger.

Laid over.

**LEGISLATIVE RESOLUTION 134.** Introduced by Janssen, 15.

PURPOSE: The purpose of this study is to investigate the implications of a bill that would exempt amounts levied by political subdivisions to satisfy the fees provided in section 33-114 from statutory levy limitations. Section 33-114 authorizes county treasurers to receive fees on behalf of their respective counties for taxes collected on behalf of other political subdivisions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 135.** Introduced by Kremer, 34.

**PURPOSE:** The purpose of this interim study is to examine current law and policy pertaining to security requirements of licensees under the Grain Warehouse Act and Grain Dealer Act. It is the goal of the study to examine means to increase the affordability and availability of security for storage and dealer transactions and to explore other means that may be made available to producers and other participants in such transactions to insure payment and the value of grain involved.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 136.** Introduced by Foley, 29.

**PURPOSE:** The purpose of this resolution is to examine the Universal Service Fund (USF). The study shall specifically focus on the following issues:

(1) A review of the USF rate charged in Nebraska as contrasted with other jurisdictions;

(2) An examination of why the Public Service Commission has not revised the USF rate in Nebraska while other jurisdictions have revised the rate;

(3) A review of the policy considerations associated with the payment of USF subsidies to wire-line companies while not making payments to wireless companies; and

(4) The advisability of the current statewide rate parity policy to determine whether it discourages competition and efficiency.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 137.** Introduced by Connealy, 16.

**PURPOSE:** The purpose of this study is to explore the need to find a dependable funding source for capital construction and renovation projects

for higher education and state government. The study shall include, but not be limited to:

- (1) An inventory of the existing state government capital needs;
- (2) The history of state investment in capital facilities;
- (3) The potential use of bonding to provide a source of revenue such as that provided in LB 1100 passed in 1998;
- (4) Potential dedicated revenue sources for capital facilities;
- (5) Efforts which have been undertaken in other states to provide a predictable source of revenue to take care of capital needs; and
- (6) Other issues raised through the introduction of LB 605, Ninety-ninth Legislature, First Session.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

## MESSAGES FROM THE GOVERNOR

May 16, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed as Superintendent of the Nebraska State Patrol.

APPOINTEE:

Major Bryan Tuma, 5421 NW Fairway Drive, Lincoln NE 68521

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/  
Enclosure

May 16, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Contingent upon your approval, the following individual was appointed as Director of the Department of Agriculture.

**APPOINTEE:**

Greg Ibach, Department of Agriculture, 301 Centennial Mall South, Lincoln NE 68509

The aforementioned name is respectfully submitted for your consideration.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/  
Enclosure

May 16, 2005

President, Speaker Brashear  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Brashear and Senators:

Although Neb. Rev. Stat. section 81-1242 does not require your confirmation of my appointment of the Executive Director for the Nebraska Commission on Law Enforcement and Criminal Justice, I am writing to provide you with a formal note that I have appointed Mike Behm to this position. He will assume this position effective May 25, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

web/

**SELECT FILE**

**LEGISLATIVE BILL 312.** Senator Connealy asked unanimous consent to withdraw the Connealy et al. pending amendment, AM1471, found on page 1402, and replace it with the Connealy, Baker, Janssen, Landis, Preister, and Redfield substitute amendment, AM1608. No objections. So ordered.

(Amendment, AM1608, is printed separately and available in the Bill Room, Room 1104.)

Senator Connealy offered the following amendment to the Connealy et al. pending amendment:

FA269

Amend AM1608

On page 26, lines 17 and 23 and page 28, line 19 strike "may" and insert "shall".

The Connealy amendment was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

The Connealy et al. amendment, AM1608, as amended, was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Senator Chambers renewed his pending amendment, FA258, found on page 1437.

Pending.

## **RESOLUTION**

**LEGISLATIVE RESOLUTION 138.** Introduced by Schrock, 38.

**PURPOSE:** To study issues relating to elimination of personal property tax on agricultural property and changing agricultural land valuation, except grassland, from 80% of market value to 85% of market value.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

## **VISITORS**

Visitors to the Chamber were 45 eighth-grade students and teachers from Our Lady of Lourdes School, Omaha; 72 fourth-grade students and teachers from J. Sterling Morton Elementary School, Omaha; and Rotarians from Hastings and the Philippines.

## **RECESS**

At 12:02 p.m., on a motion by Senator Janssen, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Byars, Cornett, and Cunningham who were excused until they arrive.

**SELECT FILE**

**LEGISLATIVE BILL 312.** Senator Chambers renewed his pending amendment, FA258, found on page 1437 and considered in this day's Journal.

Senator Chambers moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Aguilar	Cudaback	Kopplin	Preister	Synowiecki
Brown	Howard	Kruse	Price	Thompson
Chambers	Janssen	Mines	Raikes	
Connealy	Johnson	Pedersen, Dw.	Schimek	

Voting in the negative, 16:

Baker	Fischer	Hudkins	Smith
Burling	Foley	Jensen	Stuhr
Engel	Friend	Kremer	Stuthman
Erdman	Heidemann	Langemeier	Wehrbein

Present and not voting, 12:

Beutler	Combs	Louden	Pederson, D.
Bourne	Flood	McDonald	Redfield
Brashear	Landis	Pahls	Schrock

Excused and not voting, 3:

Byars	Cornett	Cunningham
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The Chambers amendment lost with 18 ayes, 16 nays, 12 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

### AMENDMENT - Print in Journal

Senator Beutler filed the following amendment to LB 529:  
AM1307

- 1 1. In the Standing Committee amendments, AM0215:
- 2 a. Strike amendment 2;
- 3 b. On page 1, strike beginning with the semicolon in
- 4 line 21 through the last quotation mark in line 22; and
- 5 c. Renumber the remaining amendments accordingly.
- 6 2. On page 3, strike beginning with the first "the" in
- 7 line 22 through line 26 and insert "there shall be a clerk of the
- 8 district court position if there was such a position on the
- 9 operative date of this section or the county clerk will be the ex
- 10 officio clerk of the district court and perform the duties of the
- 11 position of clerk of the district court if he or she was performing
- 12 such duties on such date.".
- 13 3. On page 4, strike beginning with the comma in line 5
- 14 through "are" in line 6 and insert ". Until the position of clerk
- 15 of the district court is a state position, such appointment shall
- 16 be subject to the approval of the appropriate county board and the
- 17 appointed clerk shall be subject to removal for cause by the
- 18 appropriate county board. After the position of clerk of the
- 19 district court is a state position, an appointed clerk shall serve
- 20 at the pleasure of the district court judges and the appointed
- 21 clerk is"; strike lines 8 through 16 and insert the following new
- 22 subsection:
- 23 "(3) Each person serving as an elected clerk of the
- 24 district court on the operative date of this section may serve the
- 1 remainder of his or her term of office. After the term is
- 2 completed, such clerk may continue to serve as the clerk of the
- 3 district court unless removed for cause or unless the position is
- 4 consolidated under section 1 of this act, and during such service
- 5 the clerk may be removed for cause by the appropriate county
- 6 board."; in line 19 strike "appointed"; and in line 24 strike "7"
- 7 and insert "4".
- 8 4. On page 6, line 27, strike the first "of the" and
- 9 insert "and separate juvenile court judges of the district court";
- 10 and in line 28 after "the" insert "county court".
- 11 5. On page 8, line 6, after "(1)" insert "During the
- 12 time before becoming state employees pursuant to section 1 or 2 of
- 13 this act, employees who will become transferred employees shall
- 14 receive annual pay increases from the county of no less than the
- 15 average pay increase for other county officials for the year.";
- 16 strike beginning with "Nothing" in line 21 through line 25 and
- 17 insert "An employee of the district court who is working at least
- 18 thirty-five hours per week as of January 1, 2005, and is considered

19 a full-time employee by the county as of such date shall have his  
20 or her salary proportionately increased upon becoming a state  
21 employee pursuant to section 1 or 2 of this act if the employee is  
22 required to work additional hours per week. An employee of the  
23 county court at the time of consolidation shall continue employment  
24 unless removed for cause pursuant to personnel rules adopted by the  
25 Supreme Court.".

26 6. On page 9, lines 8 and 28, after the period insert  
27 "The reimbursement to the employee shall be made prior to the  
1 reimbursement to the state and payments by a county to an employee  
2 shall be made in the county's final paycheck to the employee,  
3 except that the county is not required to make payments to an  
4 employee or to the state that exceed the estimated amount of the  
5 savings realized from the transfer of employees to state employment  
6 in any budget year."; in line 12 after "county" insert "and state";  
7 and in line 14 after the period insert "For purposes of calculating  
8 the number of hours of sick leave to be granted, past county and  
9 state employment includes continuous years of service and years of  
10 service of an employee prior to termination of employment with the  
11 state or a county for any reason other than for disciplinary  
12 reasons if such employee returned to state or county employment  
13 within five years from the date of termination.".

14 7. On page 9, line 15, and page 10, line 7, after  
15 "state" insert "within a reasonable time".

16 8. On page 10, line 4, after "county" insert "and  
17 state"; and in line 6 after the period insert "For purposes of  
18 calculating the number of hours of vacation leave to be granted,  
19 past county and state employment includes continuous years of  
20 service and years of service of an employee prior to termination of  
21 employment with the state or a county for any reason other than for  
22 disciplinary reasons if such employee returned to state or county  
23 employment within five years from the date of termination.".

24 9. On page 11, after line 7 insert:

25 "(7) No interest shall accrue on payments required by  
26 this section.".

27 10. On page 16, line 12, strike "elected"; and in line  
1 14 after "board" insert "". Bond is required for clerks of the  
2 district court until the position becomes one of a state employee".

3 11. On page 18, line 13, and page 19, line 2, strike  
4 "elected" and after "court" insert "required to be bonded under  
5 section 11-119".

6 12. On page 23, lines 19 and 20, strike the new matter  
7 and insert "county courts, district courts".

8 13. On page 29, line 16, before the comma insert  
9 "pursuant to section 1 of this act"; and strike the new matter in  
10 lines 24 through 26 and insert "Except in counties where a judicial  
11 administrator, as defined by the Supreme Court, serves as clerk of  
12 the county court, the presiding judge shall assign the magistrate  
13 duties to the clerk of the county court if there is a clerk of the

14 county court or to".

15 14. On page 44, line 2, after "sections" insert

16 "33-106.02,".

17 15. On page 46, lines 14 and 19, before "clerk" insert

18 "date that the"; and in line 21 after "funds" insert ", except

19 reimbursement funds for indirect costs," and after the period

20 insert "For reimbursement funds for indirect costs, the State Court

21 Administrator, in consultation with the counties, shall determine

22 which indirect costs shall be certified to the federal government

23 by the counties and which indirect costs shall be certified to the

24 federal government by the state.".

## RESOLUTIONS

### LEGISLATIVE RESOLUTION 139. Introduced by Baker, 44.

PURPOSE: To review laws and regulations including, but not limited to, allowable vehicle dimensions, weights, and fees as they pertain to increasing efficiency and commerce within the State of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### LEGISLATIVE RESOLUTION 140. Introduced by Baker, 44.

PURPOSE: To examine the State of Nebraska's current laws and procedures regarding the dissemination or sale of motor vehicle records disclosure, personal information, and other citizen information in electronic format. Recent highly publicized misappropriations of information by national information resellers have compromised the safety and security of citizens. The purpose of this study is to determine if current laws and practices strike an appropriate balance between providing access to information for legitimate business uses and limiting access for illegitimate uses, to analyze developments in this area, and to make recommendations as necessary.

The committee shall request input from the State Records Board and the Department of Motor Vehicles in reviewing the subject matter of this study.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report

of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 141.** Introduced by Baker, 44.

**PURPOSE:** The purpose of this study is to examine matters and issues within the jurisdiction of the Transportation and Telecommunications Committee of the Legislature.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 142.** Introduced by Baker, 44.

**PURPOSE:** To examine the motor vehicle titling laws of the various states regarding the allowable timeframe in which a lienholder must deliver a motor vehicle title after discharge of the lien. Laws 2005, LB 276, section 64 requires the lienholder to deliver the title within fifteen days after payment is received. The study shall compare this time limitation with that of other states and whether any steps may be taken to reduce the length of time in which a title is delivered, particularly when the lienholder resides outside Nebraska.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 143.** Introduced by Baker, 44.

**PURPOSE:** An integral part of the public safety network is 911 emergency telephone service. Pursuant to the Emergency Telephone Communications Systems Act, individual cities and counties are responsible for the implementation of landline 911 service in their area. They are permitted to impose a uniform service surcharge to cover costs associated with the

purchase, installation, maintenance, and operation of landline 911 service. Except for cities of the metropolitan class, the surcharge may not exceed one dollar. The surcharge imposed by cities of the metropolitan class may not exceed fifty cents. The Public Service Commission currently administers the Enhanced Wireless 911 Fund and oversees implementation of enhanced wireless 911 services throughout the state pursuant to the Enhanced Wireless 911 Services Act. Annually, the commission reviews and determines the level of surcharge necessary to carry out the Enhanced Wireless 911 Services Act. The surcharge may not exceed 50 cents per subscriber.

This study shall investigate issues related to the current state of landline and enhanced wireless 911 service and the means to ensure statewide access to landline 911 and enhanced wireless 911 service for all Nebraska residents. Input shall be solicited from the Public Service Commission, landline telecommunications carriers, wireless telecommunications carriers, counties, municipalities, public safety answering points, and the public.

Study topics shall include, but need not be limited to, the following areas:

- (1) Issues relating to landline 911, including:
  - (a) Analyzing the current status of landline 911 in each county;
  - (b) The rate of the surcharge established by each county; and
  - (c) The use of the surcharge funds collected;
- (2) Issues related to enhanced wireless 911, including:
  - (a) Analyzing the current status of enhanced wireless 911 in Nebraska;
  - (b) Analyzing how other states have implemented Phase I and Phase II of enhanced wireless service;
  - (c) Reimbursement of costs of wireless service providers; and
  - (d) Modification of the distribution of the wireless surcharge;
- (3) Issues relating to the consolidation of oversight of landline and wireless 911, including:
  - (a) Funding mechanisms;
  - (b) Administration of programs; and
  - (c) Costs, including those related to software, networks, and equipment;
- (4) Issues related to consolidation of public safety answering points, including:
  - (a) Impacts on local dispatch of emergency services;
  - (b) Issues related to stranded investment;
  - (c) Administration and oversight;
  - (d) Costs, including, but not limited to, software, equipment, and network;
- (5) The use of federal homeland security funding or other federal funding to fund projects in Nebraska; and
- (6) Any other issues arising during the course of the study relevant to furthering access to enhanced wireless 911 service.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative

Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 144.** Introduced by Baker, 44.

**PURPOSE:** Pursuant to the Nebraska Telecommunications Universal Service Fund Act, Neb. Rev. Stat. sections 86-316 to 86-329 (Cum. Supp. 2004), the policy of the State of Nebraska to preserve and advance universal service is based on the following principles: Quality telecommunications and information services at just, reasonable, and affordable rates for all consumers in all regions of the state, including low-income and those in rural and high-cost areas; access to advanced telecommunications and information services in all regions of the state; equitable and nondiscriminatory contributions by all providers of telecommunications to the preservation and advancement of universal service; that schools, libraries, and health care providers in rural areas should have access to advanced telecommunications services; and that the costs of administration of the Nebraska Telecommunications Universal Service Fund (the "fund") should be kept to a minimum.

This study shall investigate the purpose of the Nebraska Telecommunications Universal Service Fund Act and the services currently supported by the fund in order to determine whether the act should include dedicated support for wireless telecommunications services. Input shall be solicited from the Public Service Commission, regulated entities, wireless telecommunications carriers, and the public.

Study topics shall include, but not be limited to, the following areas:

(1) Issues relating to services currently receiving support, including:

- (a) Landline telecommunications service;
- (b) Broadband telecommunications;
- (c) The Nebraska Telephone Assistance Program; and
- (d) The telehealth system.

(2) Issues related to providing support for wireless telecommunications services, including:

- (a) The nature and extent of any fund support to be provided;
- (b) The nature and extent of eligibility requirements for receiving support from the fund including requirements for obtaining state and federal eligible telecommunications carrier status;
- (c) The nature of cost recovery mechanisms to be used related to the construction of wireless infrastructure with support from the fund;
- (d) The nature and extent of any regulatory oversight, if any, to be implemented with respect to carriers receiving any support from the fund; and
- (e) Issues related to the ownership and sharing of any wireless infrastructure constructed with support from the fund.

(3) Any other issues arising during the course of the study relevant to furthering the stated policy of the state of preserving and advancing universal service.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

## NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**SELECT FILE**

**LEGISLATIVE BILL 312.** Senator Chambers withdrew his pending amendments, FA240, FA241, FA243, FA244, FA245, FA246, FA247, FA248, FA249, FA250, FA251, FA252, FA253, and FA254, found on pages 1437 and 1438.

Senator Redfield offered the following amendment:  
AM1615

(Amendments to E & R amendments, AM7100)

- 1 1. On page 63, line 8, after "dollars" insert "and
- 2 maintaining at least the same number of equivalent employees as
- 3 were employed in the base year for the year the taxpayer attains
- 4 the required level of investment and the following nine years".
- 5 2. On page 73, line 12, after "(3)" insert "In the case
- 6 of a taxpayer qualified under tier 5 who has failed to maintain the
- 7 number of equivalent employees at the project for the year the
- 8 taxpayer attained the required amount of investment, any refunds in
- 9 tax allowed under subdivision (2)(a) of section 43 of this act
- 10 shall be disallowed. In the case of a taxpayer qualified under
- 11 tier 5 who has failed to maintain the number of equivalent
- 12 employees at the project for any of the nine years following the
- 13 year the taxpayer attained the required amount of investment, any
- 14 refunds in tax allowed under subdivision (2)(a) of section 43 of
- 15 this act shall be partially recaptured from the taxpayer. The
- 16 amount of recapture for each year the taxpayer failed to maintain
- 17 the number of equivalent employees shall be the total amount of
- 18 refunds allowed for all years times the reduction in the number of
- 19 equivalent employees employed in the year from the number of
- 20 equivalent employees employed in the base year divided by the
- 21 number of equivalent employees employed in the base year. The
- 22 amount of recapture shall not exceed the total amount of refunds
- 23 received for all years in the entitlement period.
- 1 (4)" and in line 19 strike "(4)" and insert "(5)".
- 2 3. On page 74, line 2, strike "(5)" and insert "(6)"; in
- 3 line 6 strike "(6)" and insert "(7)"; and in line 10 strike "(7)"
- 4 and insert "(8)".

Senator Redfield moved for a call of the house. The motion prevailed with

16 ayes, 0 nays, and 33 not voting.

Senator Redfield requested a roll call vote on her amendment.

Voting in the affirmative, 24:

Aguilar	Cunningham	Heidemann	Pedersen, Dw.	Schimek
Beutler	Erdman	Howard	Preister	Smith
Byars	Fischer	Hudkins	Price	Stuhr
Chambers	Foley	Janssen	Raikes	Thompson
Combs	Friend	Pahls	Redfield	

Voting in the negative, 8:

Brown	Engel	Jensen	Schrock
Connealy	Flood	Johnson	Wehrbein

Present and not voting, 13:

Baker	Cudaback	Kruse	Mines	Synowiecki
Bourne	Kopplin	Landis	Pederson, D.	
Brashear	Kremer	Langemeier	Stuthman	

Excused and not voting, 4:

Burling	Cornett	Louden	McDonald
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The Redfield amendment lost with 24 ayes, 8 nays, 13 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator Raikes offered the following amendment:

AM1626

(Amendments to E & R amendments, AM7100)

1. Strike sections 8 to 11.
2. On page 79, line 23, strike "77-2701.04,".
3. Renumber the remaining sections and correct internal 4 references accordingly.

Senator Raikes moved for a call of the house. The motion prevailed with 21 ayes, 2 nays, and 26 not voting.

Senator Raikes requested a roll call vote on his amendment.

Voting in the affirmative, 5:

Chambers	Pedersen, Dw.	Price	Raikes	Synowiecki
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Voting in the negative, 28:

Aguilar	Byars	Foley	Kremer	Stuhr
Baker	Cornett	Heidemann	Langemeier	Stuthman
Bourne	Cunningham	Howard	McDonald	Thompson
Brashear	Erdman	Hudkins	Mines	Wehrbein
Brown	Fischer	Jensen	Pahls	
Burling	Flood	Kopplin	Smith	

Present and not voting, 16:

Beutler	Engel	Kruse	Preister
Combs	Friend	Landis	Redfield
Connealy	Janssen	Louden	Schimek
Cudaback	Johnson	Pederson, D.	Schrock

The Raikes amendment lost with 5 ayes, 28 nays, and 16 present and not voting.

The Chair declared the call raised.

Senator Preister withdrew his pending amendment, AM0282, found on page 450.

Senator Landis offered the following amendment:  
AM1635

(Amendments to AM1608)

- 1 1. On page 11, line 10, strike "calendar".

The Landis amendment was adopted with 27 ayes, 1 nay, and 21 present and not voting.

Senator Smith offered the following amendment:  
AM1610

(Amendments to E & R amendments, AM7100)

- 1 1. Insert the following new section:
- 2 "Sec. 17. Section 77-27,187.02, Reissue Revised Statutes
- 3 of Nebraska, is amended to read:
- 4 77-27,187.02. (1) For tax years beginning or deemed to
- 5 begin on or after January 1, 2004, under the Internal Revenue Code
- 6 of 1986, as amended, in order to earn the incentives set forth in
- 7 the Employment Expansion and Investment Incentive Act, the taxpayer
- 8 shall file an application for an agreement with the Tax
- 9 Commissioner.
- 10 (2) The application shall contain:
- 11 (a) A written statement describing the full expected
- 12 employment and investment for a qualified business in this state;
- 13 (b) Sufficient documents, plans, and specifications as
- 14 required by the Tax Commissioner to support the plan and to define

15 a project;

16 (c) An application fee of five hundred dollars. The fee  
17 shall be remitted to the State Treasurer for credit to the  
18 Employment Expansion and Investment Incentive Fund, which fund is  
19 hereby created. Any money in the fund available for investment  
20 shall be invested by the state investment officer pursuant to the  
21 Nebraska Capital Expansion Act and the Nebraska State Funds  
22 Investment Act. The application and all supporting information  
23 shall be confidential except for the name of the taxpayer, the  
1 location of the project, and the amounts of increased employment  
2 and investment.

3 (3) Once satisfied that the plan in the application  
4 defines a project that meets the investment, employment, and wage  
5 requirements and is located in an eligible municipality, county, or  
6 enterprise zone, and that these requirements will be reached within  
7 the required time period, the Tax Commissioner shall approve the  
8 application and authorize the total amount of credits expected to  
9 be earned as a result of the project. The Tax Commissioner shall  
10 not approve further applications once the expected credits from the  
11 approved projects total two million five hundred thousand dollars  
12 in each of fiscal years 2004-05 and 2005-06 and three million  
13 dollars in fiscal year 2006-07 and each fiscal year thereafter.  
14 Four hundred dollars of the application fee shall be refunded to  
15 the applicant if the application is not approved because the  
16 expected credits from approved projects exceed such amounts.  
17 Applications for benefits shall be considered in the order in which  
18 they are received.

19 (4) After approval, the taxpayer and the Tax Commissioner  
20 shall enter into a written agreement. The taxpayer shall agree to  
21 complete the project, and the Tax Commissioner, on behalf of the  
22 State of Nebraska, shall designate the approved plans of the  
23 taxpayer as a project and, in consideration of the taxpayer's  
24 agreement, agree to allow the taxpayer to use the incentives  
25 contained in the Employment Expansion and Investment Incentive Act  
26 up to the total amount that were authorized by the Tax Commissioner  
27 at the time of approval. The application, and all supporting  
1 documentation, to the extent approved, shall be considered a part  
2 of the agreement. The agreement shall state:

3 (a) The levels of employment and investment required by  
4 the act for the project;

5 (b) The time period under the act in which the required  
6 level must be met;

7 (c) The documentation the taxpayer will need to supply  
8 when claiming an incentive under the act;

9 (d) The date the application was filed; and

10 (e) The maximum amount of credits authorized."

11 2. On page 46, line 18, after "any" insert "municipality  
12 or"; and in line 27 after "any" insert "municipality or".

13 3. On page 79, line 21, after the fifth comma insert

14 "77-27,187.02,".

15 4. Renumber the remaining sections and correct internal  
16 references accordingly.

Senator Smith withdrew his amendment.

Pending.

### **REFERENCE COMMITTEE REPORT**

The Legislative Council Executive Board submits the following report:

Ibach, Greg - Department of Agriculture - Agriculture

Tuma, Bryan - Nebraska State Patrol - Government, Military and Veterans Affairs

Behm, Mike - Nebraska Commission on Law Enforcement and Criminal Justice - Government, Military and Veterans Affairs

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

### **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 145.** Introduced by Dw. Pedersen, 39.

**PURPOSE:** The purpose of this resolution is to study parole issues, including, but not limited to, consideration of correctional programs, community programs, decisionmaking by the Board of Parole, administrative performance of the Office of Parole Administration, and the role of the Board of Parole in the pardon process. Some of the areas to be considered are:

(1) The adequacy of preparation for release by the Department of Correctional Services in the areas of mental health, substance abuse, education, and job skills;

(2) A survey of community programs that are available and/or needed to address the needs of community custody inmates, parolees, and inmates who have completed their incarceration;

(3) A review of the decisionmaking processes of the Board of Parole, including a review of the numbers of inmates paroled, the criminal histories of the inmates paroled, and the length of parole;

(4) A review of the administrative performance of the Office of Parole Administration, including the case loads of parole officers, the statewide distribution of parole administration staff, and the budget of the Office of Parole Administration;

(5) The pardon process with particular attention devoted to the question of the recommendations from the Board of Parole to the Board of Pardons regarding commutation of sentences; and

(6) Review of the use of medical or hardship parole in the State of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution. The committee shall utilize the energies and expertise of legislative staff, Department of Correctional Services staff, the Board of Parole and the Office of Parole Administration, any community resources, and other interested parties. This study shall be completed before December 31, 2005.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 146.** Introduced by Business and Labor Committee: Cunningham, 40; Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5; Schimek, 27.

**PURPOSE:** To study the workers' compensation program to determine whether changes in benefits or procedures are warranted. The study shall include, but not be limited to, the following areas:

(1) Evaluating the policies, procedures, and goals of the workers' compensation program;

(2) An evaluation of Nebraska's program and how it compares with other states;

(3) Evaluating and determining whether changes in current benefits and services are in order;

(4) Evaluating whether there are cost containment measures that can be implemented and whether they should be implemented;

(5) Evaluating the use and benefit of managed care plans and whether they should be continued and to what extent;

(6) An evaluation of the current vocational rehabilitation program to determine whether it is meeting the Legislature's goals;

(7) Determining how to provide employees with the best care in the shortest period of time in order to meet the policies and goals of the workers' compensation program; and

(8) Evaluating whether a judicial court or an industrial relations board is the appropriate form of review for workers' compensation claims.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Business and Labor Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 147.** Introduced by Business and Labor Committee: Cunningham, 40; Chairperson; Burling, 33; Combs, 32; Preister, 5; Schimek, 27.

**PURPOSE:** To study the Workplace Safety Consultation Program as set forth under Neb. Rev. Stat. section 48-446, and its proposed revisions under LB 656, introduced in the Ninety-ninth Legislature, First Session, 2005. This study shall include, but not be limited to, identifying how to adequately and effectively fund the Workplace Safety Consultation Program in order to carry out the targeted inspections and consultations for the program to be self-sufficient into the future. The study shall also include identifying the businesses that should receive the inspection and consultation services and, should the Legislature vote to reestablish the program, a timeline for reestablishing the Workplace Safety Consultation Program.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Business and Labor Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### SELECT FILE

**LEGISLATIVE BILL 312.** Senator Loudon offered the following motion: Reconsider the vote taken on the Redfield amendment, AM1615.

Senator Loudon moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Senator Loudon requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 26:

Aguilar	Cornett	Howard	Pedersen, Dw.	Stuhr
Beutler	Cunningham	Hudkins	Preister	Thompson
Burling	Erdman	Janssen	Price	
Byars	Fischer	Louden	Raikes	
Chambers	Friend	McDonald	Redfield	
Combs	Heidemann	Pahls	Schimek	

Voting in the negative, 16:

Baker	Connealy	Johnson	Mines
Bourne	Engel	Kopplin	Schrock
Brashear	Flood	Kremer	Smith
Brown	Jensen	Landis	Wehrbein

Present and not voting, 7:

Cudaback	Kruse	Pederson, D.	Synowiecki
Foley	Langemeier	Stuthman	

The Louden motion to reconsider prevailed with 26 ayes, 16 nays, and 7 present and not voting.

The Redfield amendment, AM1615, found in this day's Journal, was reconsidered.

The Redfield amendment was adopted with 26 ayes, 16 nays, and 7 present and not voting.

The Chair declared the call raised.

Pending.

### AMENDMENTS - Print in Journal

Senators Bourne and Aguilar filed the following amendment to LB 117:  
AM1592

(Amendments to E & R amendments, AM7091)

- 1 1. Insert the following new section:
- 2 "Sec. 7. Section 28-707, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 28-707. (1) A person commits child abuse if he or she
- 5 knowingly, intentionally, or negligently causes or permits a minor
- 6 child to be:
- 7 (a) Placed in a situation that endangers his or her life
- 8 or physical or mental health;
- 9 (b) Cruelly confined or cruelly punished;
- 10 (c) Deprived of necessary food, clothing, shelter, or
- 11 care;
- 12 (d) Placed in a situation to be sexually exploited by
- 13 allowing, encouraging, or forcing such minor child to solicit for
- 14 or engage in prostitution, debauchery, public indecency, or obscene
- 15 or pornographic photography, films, or depictions; ~~or~~
- 16 (e) Placed in a situation to be sexually abused as
- 17 defined in section 28-319 or 28-320.01; or
- 18 (f) Placed in or near the processing, cooking, or
- 19 manufacturing of methamphetamine.
- 20 (2) The statutory privilege between patient and
- 21 physician, between client and professional counselor, and between

22 husband and wife shall not be available for excluding or refusing  
 23 testimony in any prosecution for a violation of this section.

1 (3) Child abuse is a Class I misdemeanor if the offense  
 2 is committed negligently.

3 (4) Child abuse is a Class IIIA felony if the offense is  
 4 committed knowingly and intentionally and does not result in  
 5 serious bodily injury as defined in section 28-109.

6 (5) Child abuse is a Class III felony if the offense is  
 7 committed knowingly and intentionally and results in serious bodily  
 8 injury as defined in ~~such~~ section 28-109.

9 (6) Child abuse is a Class IB felony if the offense is  
 10 committed knowingly and intentionally and results in the death of  
 11 such child."

12 2. On page 17, line 11, strike "nineteen" and insert  
 13 "eighteen"; and in lines 19 and 20 strike "an operator's license or  
 14 state identification card" and insert "a valid driver's or  
 15 operator's license, a Nebraska state identification card, a  
 16 military identification card, an alien registration card, or a  
 17 passport".

18 3. On page 18, line 7, strike ", by retail,"; in line 8  
 19 after "acquire" insert ", other than wholesale acquisition by a  
 20 retail business in the normal course of its trade or business,";  
 21 and in line 15 strike "and" and after "28-456" insert ", and  
 22 28-707".

23 4. Renumber the remaining section accordingly.

Senator Chambers filed the following amendment to LB 425:  
 AM1632

(Amendments to Final Reading copy)

1 1. Insert the following new section:

2 "Sec. 279. LEGISLATIVE INTENT.

3 It is the intent of the Legislature that there shall be  
 4 no discrimination by any agency receiving funds under this act  
 5 against any person based on sexual orientation."

6 2. Renumber the remaining sections accordingly.

Senator Chambers filed the following amendment to LB 427:  
 AM1633

(Amendments to Final Reading copy)

1 1. Insert the following new section:

2 "Sec. 3. The State of Nebraska declares that when it is  
 3 acting as an employer sexual orientation shall not be a basis for  
 4 discrimination in personnel matters and shall not be a criterion in  
 5 determining just cause for hiring, firing, promotion, demotion, and  
 6 other personnel matters covered by its employment contracts with  
 7 its employees or other employer-employee relationships."

8 2. On page 1, line 1, strike "the Cash Reserve Fund" and  
 9 insert "state government"; in line 3 strike "completed fund" and  
 10 insert "Cash Reserve Fund"; and in line 4 after the first semicolon

11 insert "to state policy as prescribed;".

12 3. Renumber the remaining sections accordingly.

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 312A.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 312, Ninety-ninth Legislature, First Session, 2005.

### **SELECT FILE**

**LEGISLATIVE BILL 312.** Senator Chambers offered the following amendment:

FA270

Amend E & R amendments, AM7100

1. Strike the original sections and all amendments thereto and insert the following new section:

"Section 1. Notwithstanding any other provision of law, no business, regardless of size or number of employees shall pay any tax of any kind whatsoever."

Senator Chambers moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 4:

Chambers	Friend	Kruse	Schrock
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Voting in the negative, 18:

Aguilar	Foley	Landis	Preister	Thompson
Connealy	Howard	Louden	Schimek	Wehrbein
Engel	Janssen	McDonald	Smith	
Erdman	Kopplin	Mines	Synowiecki	

Present and not voting, 21:

Baker	Byars	Heidemann	Pedersen, Dw.	Stuthman
Beutler	Cornett	Hudkins	Pederson, D.	
Bourne	Cudaback	Jensen	Price	
Brashear	Fischer	Johnson	Raikes	
Brown	Flood	Pahls	Stuhr	

Excused and not voting, 6:

Burling	Cunningham	Langemeier
Combs	Kremer	Redfield

The Chambers amendment lost with 4 ayes, 18 nays, 21 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 42 ayes, 3 nays, 3 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 90.** E & R amendment, AM7099, printed separately and referred to on page 1514, was adopted.

Senator Beutler withdrew his pending amendments, FA262 and AM1543, found on pages 1454 and 1484.

Senators Stuhr and Beutler offered the following amendment:  
AM1602

(Amendments to E & R amendments, AM7099)

- 1 1. On page 4, line 7, after "any" insert "agricultural  
2 or value-added agricultural product".
- 3 2. On page 5, strike beginning with line 13 through the  
4 semicolon in line 14; in line 15 strike "(8)" and insert "(7)"; in  
5 line 20 after "grants" insert "for projects"; and in line 21 after  
6 "Act" insert "to eligible entities".
- 7 3. On page 6, strike beginning with "Grant" in line 21  
8 through line 24.

The Stuhr-Beutler amendment was adopted with 29 ayes, 0 nays, 19 present and not voting, and 1 excused and not voting.

Senator Bourne offered the following amendment:  
AM1631

(Amendments to E & R amendments, AM7099)

- 1 1. Insert the following new sections:
- 2 "Sec. 18. Section 66-1345, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 66-1345. (1) There is hereby created the Ethanol
- 5 Production Incentive Cash Fund which shall be used by the board to
- 6 pay the credits created in section 66-1344 to the extent provided
- 7 in this section. Any money in the fund available for investment
- 8 shall be invested by the state investment officer pursuant to the
- 9 Nebraska Capital Expansion Act and the Nebraska State Funds
- 10 Investment Act. The State Treasurer shall transfer to the Ethanol

11 Production Incentive Cash Fund such money as shall be (a)  
12 appropriated to the Ethanol Production Incentive Cash Fund by the  
13 Legislature, (b) given as gifts, bequests, grants, or other  
14 contributions to the Ethanol Production Incentive Cash Fund from  
15 public or private sources, (c) made available due to failure to  
16 fulfill conditional requirements pursuant to investment agreements  
17 entered into prior to April 30, 1992, (d) received as return on  
18 investment of the Ethanol Authority and Development Cash Fund, (e)  
19 credited to the Ethanol Production Incentive Cash Fund from the  
20 excise taxes imposed by section 66-1345.01, and (f) credited to the  
21 Ethanol Production Incentive Cash Fund pursuant to sections 66-489,  
22 66-4,134, 66-726, 66-1345.04, and 66-1519.

23 (2) The Department of Revenue shall, at the end of each  
1 calendar month, notify the State Treasurer of the amount of motor  
2 fuel tax that was not collected in the preceding calendar month due  
3 to the credits provided in section 66-1344. The State Treasurer  
4 shall transfer from the Ethanol Production Incentive Cash Fund to  
5 the Highway Trust Fund an amount equal to such credits less the  
6 following amounts:

7 (a) For 1993, 1994, and 1995, the amount generated during  
8 the calendar quarter by a one-cent tax on motor fuel pursuant to  
9 sections 66-489 and 66-6,107;

10 (b) For 1996, the amount generated during the calendar  
11 quarter by a three-quarters-cent tax on motor fuel pursuant to such  
12 sections;

13 (c) For 1997, the amount generated during the calendar  
14 quarter by a one-half-cent tax on motor fuel pursuant to such  
15 sections; and

16 (d) For 1998 and each year thereafter, no reduction.

17 For 1993 through 1997, if the amount generated pursuant  
18 to subdivisions (a), (b), and (c) of this subsection and the amount  
19 transferred pursuant to subsection (1) of this section are not  
20 sufficient to fund the credits provided in section 66-1344, then  
21 the credits shall be funded through the Ethanol Production  
22 Incentive Cash Fund but shall not be funded through either the  
23 Highway Cash Fund or the Highway Trust Fund. For 1998 and each  
24 year thereafter, the credits provided in such section shall be  
25 funded through the Ethanol Production Incentive Cash Fund but shall  
26 not be funded through either the Highway Cash Fund or the Highway  
27 Trust Fund.

1 If, during any month, the amount of money in the Ethanol  
2 Production Incentive Cash Fund is not sufficient to reimburse the  
3 Highway Trust Fund for credits earned pursuant to section 66-1344,  
4 the Department of Revenue shall suspend the transfer of credits by  
5 ethanol producers until such time as additional funds are available  
6 in the Ethanol Production Incentive Cash Fund for transfer to the  
7 Highway Trust Fund. Thereafter, the Department of Revenue shall,  
8 at the end of each month, allow transfer of accumulated credits  
9 earned by each ethanol producer on a prorated basis derived by

10 dividing the amount in the fund by the aggregate amount of  
11 accumulated credits earned by all ethanol producers.

12 (3) The State Treasurer shall transfer from the Ethanol  
13 Production Incentive Cash Fund to the Management Services Expense  
14 Revolving Fund the amount reported under subsection (4) of section  
15 66-1345.02 for each calendar month of the fiscal year as provided  
16 in such subsection.

17 (4) On December 31, 2012, the State Treasurer shall  
18 transfer one-half of the unexpended and unobligated funds from the  
19 Ethanol Production Incentive Cash Fund to the Nebraska Corn  
20 Development, Utilization, and Marketing Fund and Grain Sorghum  
21 Development, Utilization, and Marketing Fund in the same proportion  
22 as funds were collected pursuant to section 66-1345.01 from corn  
23 and grain sorghum. The Department of Agriculture shall assist the  
24 State Treasurer in determining the amounts to be transferred to the  
25 funds. The remaining one-half of the unexpended and unobligated  
26 funds shall be transferred to the General Fund.

27 (5) ~~Whenever the unobligated balance in the Ethanol~~  
1 ~~Production Incentive Cash Fund exceeds twenty million dollars, the~~  
2 ~~Department of Revenue shall notify the Department of Agriculture at~~  
3 ~~which time the Department of Agriculture shall suspend collection~~  
4 ~~of the excise tax levied pursuant to section 66-1345.01. If, after~~  
5 ~~suspension of the collection of such excise tax, the balance of the~~  
6 ~~fund falls below ten million dollars, the Department of Revenue~~  
7 ~~shall notify the Department of Agriculture which shall resume~~  
8 ~~collection of the excise tax~~ Whenever the balance in the Ethanol  
9 Production Incentive Cash Fund is projected to fall below one  
10 million dollars in the next fiscal year, the Department of Revenue  
11 shall notify the State Treasurer at which time the State Treasurer  
12 shall transfer six million dollars from the Cash Reserve Fund to  
13 the Ethanol Production Incentive Cash Fund no later than the  
14 seventh day of the new fiscal year in which the balance is  
15 projected to fall below one million dollars. Such transfer shall  
16 occur in each year the balance is projected to fall below one  
17 million dollars. The transfer required pursuant to this section  
18 shall be in addition to the General Fund transfers authorized in  
19 section 66-1345.04.

20 (6) On or before December 1, 2003, and each December 1  
21 thereafter, the Department of Revenue and the Nebraska Ethanol  
22 Board shall jointly submit a report to the Legislature which shall  
23 project the anticipated revenue and expenditures from the Ethanol  
24 Production Incentive Cash Fund through the termination of the  
25 ethanol production incentive programs pursuant to section 66-1344.  
26 The initial report shall include a projection of the amount of  
27 ethanol production for which the Department of Revenue has entered  
1 agreements to provide ethanol production credits pursuant to  
2 section 66-1344.01 and any additional ethanol production which the  
3 Department of Revenue and the Nebraska Ethanol Board reasonably  
4 anticipate may qualify for credits pursuant to section 66-1344.

5 Sec. 21. Section 84-612, Revised Statutes Supplement,  
6 2004, is amended to read:

7 84-612. (1) There is hereby created within the state  
8 treasury a fund known as the Cash Reserve Fund which shall be under  
9 the direction of the State Treasurer. The fund shall only be used  
10 pursuant to this section.

11 (2) The State Treasurer shall transfer funds from the  
12 Cash Reserve Fund to the General Fund upon certification by the  
13 Director of Administrative Services that the current cash balance  
14 in the General Fund is inadequate to meet current obligations.  
15 Such certification shall include the dollar amount to be  
16 transferred. Any transfers made pursuant to this subsection shall  
17 be reversed upon notification by the Director of Administrative  
18 Services that sufficient funds are available.

19 (3) On July 23, 2001, the State Treasurer shall transfer  
20 three hundred seventy thousand dollars from the Cash Reserve Fund  
21 to the Municipal Natural Gas Regulation Revolving Loan Fund for  
22 purposes of loaning to Nebraska communities that seek to review  
23 natural gas rates. Any transfer made pursuant to this subsection  
24 shall be reversed upon notification by the Director of Policy  
25 Research that a sufficient court judgment has been obtained. Upon  
26 reversal, any money in excess of three hundred seventy thousand  
27 dollars shall be transferred to the Municipal Rate Negotiations  
28 Revolving Loan Fund.

29 (4) On June 15, 2004, the State Treasurer shall transfer  
30 three million dollars from the Cash Reserve Fund to the General  
31 Fund.

32 (5) On June 15, 2005, the State Treasurer shall transfer  
33 twenty-six million dollars from the Cash Reserve Fund to the  
34 General Fund.

35 (6) The State Treasurer, at the direction of the budget  
36 administrator of the budget division of the Department of  
37 Administrative Services, shall transfer such amounts not to exceed  
38 five million seven hundred twenty-seven thousand seven hundred  
39 seven dollars in total from the Cash Reserve Fund to the Nebraska  
40 Capital Construction Fund between July 1, 2003, and June 30, 2007.

41 (7) The State Treasurer, at the direction of the budget  
42 administrator, shall transfer an amount equal to the total amount  
43 transferred pursuant to subsection (6) of this section from the  
44 General Fund to the Cash Reserve Fund on or before June 30, 2008.

45 (8) In addition to receiving transfers from other funds,  
46 the Cash Reserve Fund shall receive federal funds received by the  
47 State of Nebraska for undesignated general government purposes,  
48 federal revenue sharing, or general fiscal relief of the state.

49 (9) The State Treasurer, at the direction of the budget  
50 administrator of the budget division of the Department of  
51 Administrative Services, shall transfer fifty-eight million one  
52 hundred ninety-one thousand eight hundred sixty-two dollars from  
53 the Cash Reserve Fund to the General Fund on or before June 30,

- 27 2004. There is included in this subsection a transfer of  
 1 fifty-eight million one hundred ninety-one thousand eight hundred  
 2 sixty-two dollars of federal payments made to the State of Nebraska  
 3 under the Jobs and Growth Tax Relief Reconciliation Act of 2003 to  
 4 the General Fund for purposes of providing essential government  
 5 services such as health care and education as appropriated from the  
 6 General Fund for fiscal year 2003-04 in Laws 2003, LB 407.  
 7 (10) The State Treasurer shall transfer funds from the  
 8 Cash Reserve Fund to the Ethanol Production Incentive Cash Fund as  
 9 provided in subsection (5) of section 66-1345."  
 10 2. On page 22, line 6, strike each occurrence of  
 11 "seven-eighths" and insert "one".  
 12 3. On page 23, line 24, strike "\$2,500,000" and insert  
 13 "\$4,000,000"; and in line 26 strike "\$5,500,000" and insert  
 14 "\$7,000,000".  
 15 4. On page 24, line 1, strike "\$2,500,000" and insert  
 16 "\$4,000,000"; and in lines 8 and 9 strike "section 66-1345.01" and  
 17 insert "sections 66-1345, 66-1345.01, and 84-612".  
 18 5. Renumber the remaining sections accordingly.

Senator Connealy offered the following amendment to the Bourne pending amendment:

FA271

Amend AM1631

On page 7 strike lines 10 and 11.

Senator Landis moved the previous question. The question is, "Shall the debate now close?"

Senator Landis moved for a call of the house. The motion prevailed with 12 ayes, 0 nays, and 37 not voting.

The motion to cease debate prevailed with 26 ayes, 1 nay, and 22 not voting.

Senator Kremer requested a roll call vote, in reverse order, on the Connealy amendment.

Voting in the affirmative, 7:

Brown	Cudaback	Friend	Synowiecki
Connealy	Erdman	Smith	

Voting in the negative, 19:

Beutler	Cornett	Jensen	Langemeier	Stuhr
Brashear	Cunningham	Kopplin	Mines	Thompson
Byars	Flood	Kruse	Pederson, D.	Wehrbein
Chambers	Hudkins	Landis	Redfield	

Present and not voting, 19:

Baker	Fischer	Janssen	McDonald	Schimek
Bourne	Foley	Johnson	Pahls	Schrock
Burling	Heidemann	Kremer	Price	Stuthman
Combs	Howard	Louden	Raikes	

Excused and not voting, 4:

Aguilar	Engel	Pedersen, Dw. Preister
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The Connealy amendment lost with 7 ayes, 19 nays, 19 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

The Bourne pending amendment, AM1631, found in this day's Journal, was renewed.

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 33 ayes, 1 nay, and 15 not voting.

Senator Bourne withdrew his amendment.

Advanced to E & R for engrossment.

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 148.** Introduced by Burling, 33.

**PURPOSE:** The purpose of this study is to assess and determine the policy issues that coincide with the inclusion of exempt agriculture producers and the penalty provisions that they are subject to under the Nebraska Workers' Compensation Act.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Business and Labor Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 149.** Introduced by Mines, 18.

**PURPOSE:** The purpose of this resolution is to study whether Nebraska

should further develop legislation to save expenditure of state tax dollars by providing greater assurance that state benefit programs, including the medical assistance program, are actually payors of last resort when applicants and recipients under them are also covered by health plans that provide for payment to or on behalf of an individual as a result of an illness, disability, or injury or change in a health condition.

The study should include a review of issues raised during consideration of LB 589 (Legislative Performance Audit Committee) introduced in 2005 and referred to the Banking, Commerce and Insurance Committee.

In order to carry out the purpose of this resolution, the committee should seek the assistance of the Legislative Research Division and should consider the input of the Department of Health and Human Services and the Department of Health and Human Services Finance and Support, the Department of Insurance, and interested persons as it deems necessary and beneficial.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

#### **LEGISLATIVE RESOLUTION 150.** Introduced by Schrock, 38.

**PURPOSE:** The purpose of this interim study is to examine the eligibility requirements for directors of public power districts. The study shall include the following:

1. Review the current director eligibility requirements for all public power districts;

2. Review the current procedures to exclude areas served by other power suppliers from the chartered service territory of a public power district to determine if changes are necessary;

3. Determine the need or practicality to have public power district candidates be retail consumers on record with the public power district;

4. Identify a means to provide representation on public power district boards in an equitable manner that would be inclusive of all consumers of the public power district; and

5. Determine whether changing director eligibility requirements would improve the election process and public power district board operations.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report

of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 151.** Introduced by Cornett, 45.

**PURPOSE:** The purpose of this study is to examine the practices and procedures regarding the collection of delinquent corporate and business taxes. The study shall examine present practices in the State of Nebraska and other states and shall look for improvements to the present system from the standpoint of the state, counties, and taxpayers.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 152.** Introduced by Raikes, 25.

**PURPOSE:** Nebraska all-terrain vehicle (ATV) dealers have reported adverse business effects due to the state policy that tax on sales of such vehicles be collected at the location of sale. These effects result from would-be customers purchasing vehicles from retailers outside of the state then failing, through ignorance or willful intent, to remit the applicable sales tax to the Department of Revenue. Failure to remit such sales tax lowers the overall cost of the ATV purchase for the customer and thereby places Nebraska dealers, who are statutorily required to collect sales tax at the time of sale, at a competitive disadvantage to out-of-state dealers. The implementation of a registration system for ATVs could aid in addressing this concern. By collecting sales tax at registration, greater compliance in remitting sales tax could be achieved allowing the state to claim additional revenue. The requirement for ATV dealers to collect sales tax at the location of sale would also be removed, eliminating the competitive disadvantage. The implementation of a registration process might also enhance compliance with the titling requirement for ATVs.

This study shall consider:

(1) Whether implementation of a registration process will adequately address the issue of noncompliance in remitting sales tax and titling ATVs;

(2) Whether payment of sales tax should be consolidated with the current titling requirements; and

(3) Whether and how revenue resulting from registration fees could be used to enhance recreational opportunities for Nebraska ATV operators.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 153.** Introduced by Janssen, 15.

**PURPOSE:** To review LB 530, introduced during the Ninety-ninth Legislature, First Session, that proposed changing retail liquor license issuance consideration.

Introduced at the request of the Nebraska Liquor Control Commission, LB 530 contained some of the commission's recommendations for liquor law changes that were presented to the Governor as required by subdivision (9) of section 53-117. LB 530 proposed giving the commission more discretion to take license density into account when issuing retail liquor licenses. The commission has indicated that there have been increased liquor law violations in areas where there is an over-saturation of licensees. The suggested revision to section 53-132 would have changed directory language into discretionary language relating to the conditions under which the commission must grant a license and updated the criteria used by the commission and local governing bodies in considering new licenses.

The study shall consider, but not be limited to, the following:

(1) The provisions of LB 530 and any formal or informal discussions held on the bill;

(2) The effect that such a policy would have on the issuance of new licenses;

(3) The effect, if any, on current licensees;

(4) Whether any local control over license approval would be affected;

(5) Whether the problem of over-saturation would be addressed by changing the statutory language;

(6) The effect of using or not using the word "density" in any new statutory language, and how to lawfully consider density;

(7) The case law on liquor license issuance and legislation in Nebraska; and

(8) Possible statutory solutions to address the over-saturation problem.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the General Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 154.** Introduced by Byars, 30.

**PURPOSE:** To examine the potential of combining the Board of Barber Examiners and the Board of Cosmetology Examiners within the Department of Health and Human Services Regulation and Licensure.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 155.** Introduced by Loudon, 49.

**PURPOSE:** The purpose of this study is to examine the relationship between school districts' formula needs as calculated under the Tax Equity and Educational Opportunities Support Act and school districts' costs of meeting accreditation under Rule 10, including, but not limited to, elementary curriculum, secondary curriculum, administrative costs, and other mandatory requirements for legal operation.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 156.** Introduced by Schrock, 38.

**PURPOSE:** The purpose of this study is to explore the environmental impact of historical waste disposal at the Agricultural Research and Development Center near Mead, Nebraska, the potential impact of any remediation on the University of Nebraska and potential funding sources to fund such remediation.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 157.** Introduced by Stuthman, 22.

PURPOSE: To examine the current statutory scheme regarding enforcement of rental agreements and leases under the Uniform Residential Landlord and Tenant Act. The study shall be specifically focused on determining whether a rental agreement or lease for a specified term is enforceable for the duration of the lease rather than enforceable for a lesser period. The study shall also examine the feasibility of making statutory changes to give landlords a proper remedy in the event that the rental agreement or lease is prematurely terminated by the tenant.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**AMENDMENTS - Print in Journal**

Senator Landis filed the following amendment to LB 48:

(Amendment, AM1498, is printed separately and available in the Bill Room, Room 1104.)

Senator McDonald filed the following amendment to LB 332:

AM1630

(Amendments to Standing Committee amendments, AM0795)

- 1 1. Insert the following new section:
- 2 "Sec. 3. It is the intent of the Legislature to
- 3 appropriate five hundred thousand dollars from the General Fund for
- 4 FY2005-06 and five hundred thousand dollars from the General Fund
- 5 for FY2006-07, for compulsive gamblers assistance programs, which
- 6 appropriations shall be in addition to any funds appropriated from
- 7 the Charitable Gaming Operations Trust Fund or the State Lottery
- 8 Operation Trust Fund to the Compulsive Gamblers Assistance Fund in
- 9 such fiscal years for such programs."
- 10 2. Renumber the remaining sections accordingly.

Senator Bourne filed the following amendment to LB 713:

AM1344

(Amendments to Standing Committee amendments, AM1108)

- 1 1. Strike sections 2 and 9 through 19.
- 2 2. Renumber the remaining section, correct internal
- 3 references, and correct the repealer accordingly.

Senator Landis filed the following amendment to LB 48:  
AM1637

(Amendments to Standing Committee amendments, AM0662)

- 1 1. On page 8, after line 14 insert the following
- 2 subsection:
- 3 "(4) In the event that the maps filed pursuant to
- 4 subsection (1) of this section indicate that the same area is
- 5 claimed by two or more jurisdictional utilities, cities, or
- 6 metropolitan utilities districts or a combination thereof as being
- 7 within each of their claimed initial exclusive service areas, the
- 8 commission shall, after notice to the affected and claiming
- 9 entities and a hearing, order a modification of the boundaries of
- 10 the initial service areas as provided in the act.".

Senator Landis filed the following amendment to LB 48:  
AM1640

(Amendments to Standing Committee amendments, AM0662)

- 1 1. Insert the following new section:
- 2 "Sec. 16. This legislative bill shall not change the
- 3 authority and power conferred upon the boards of directors of
- 4 metropolitan utilities districts under section 14-2113.".
- 5 2. Renumber the remaining sections accordingly.

Senator Landis filed the following amendment to LB 48:  
AM1639

(Amendments to Standing Committee amendments, AM0662)

- 1 1. Insert the following new section:
- 2 "Sec. 16. This legislative bill shall not change the
- 3 rights and powers conferred upon metropolitan utilities districts
- 4 under section 14-2116.".
- 5 2. Renumber the remaining sections accordingly.

Senator Landis filed the following amendment to LB 48:  
AM1638

(Amendments to Standing Committee amendments, AM0662)

- 1 1. On page 10, line 9, after the second comma insert "a
- 2 city, a metropolitan utilities district."; in line 14 strike
- 3 "unlawful" and insert "unauthorized natural gas"; and in line 15
- 4 strike "unlawful" and insert "unauthorized natural gas service".

## SELECT FILE

**LEGISLATIVE BILL 90A.** Senator Chambers reoffered his amendment, AM1528, found on page 1459 and considered on page 1512.

## SENATOR SCHIMEK PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with

13 ayes, 1 nay, and 35 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Bourne	Conneally	Hudkins	Louden	Schimek
Brown	Cornett	Janssen	McDonald	Stuthman
Byars	Fischer	Kopplin	Pahls	Synowiecki
Chambers	Howard	Kruse	Price	

Voting in the negative, 13:

Cunningham	Flood	Langemeier	Redfield	Wehrbein
Engel	Jensen	Mines	Smith	
Erdman	Landis	Raikes	Thompson	

Present and not voting, 11:

Baker	Burling	Heidemann	Schrock
Beutler	Foley	Johnson	Stuhr
Brashear	Friend	Kremer	

Excused and not voting, 6:

Aguilar	Cudaback	Pederson, D.
Combs	Pedersen, Dw.	Preister

The Chambers amendment lost with 19 ayes, 13 nays, 11 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for engrossment.

## GENERAL FILE

**LEGISLATIVE BILL 500.** Senator Chambers renewed his pending motion, found on page 1470, to reconsider the vote to recommit to the Revenue Committee.

## SENATOR BAKER PRESIDING

Senator Friend moved the previous question. The question is, "Shall the debate now close?"

Senator Landis moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Senator Friend requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 30:

Baker	Connealy	Foley	Kopplin	Pahls
Beutler	Cornett	Friend	Kremer	Pederson, D.
Brashear	Cunningham	Howard	Kruse	Price
Brown	Engel	Hudkins	Landis	Schrock
Burling	Erdman	Jensen	Langemeier	Smith
Byars	Flood	Johnson	Mines	Thompson

Voting in the negative, 8:

Bourne	Janssen	Schimek	Stuthman
Chambers	Raikes	Stuhr	Synowiecki

Present and not voting, 5:

Fischer	Heidemann	Louden	Redfield	Wehrbein
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Excused and not voting, 6:

Aguilar	Cudaback	Pedersen, Dw.
Combs	McDonald	Preister

The motion to cease debate prevailed with 30 ayes, 8 nays, 5 present and not voting, and 6 excused and not voting.

Senator Chambers requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 19:

Bourne	Engel	Janssen	Price	Stuhr
Burling	Fischer	Kremer	Raikes	Stuthman
Chambers	Foley	Langemeier	Redfield	Synowiecki
Cunningham	Hudkins	Louden	Schimek	

Voting in the negative, 22:

Baker	Cornett	Jensen	Mines	Thompson
Beutler	Erdman	Johnson	Pahls	Wehrbein
Brashear	Flood	Kopplin	Pederson, D.	
Brown	Friend	Kruse	Schrock	
Connealy	Howard	Landis	Smith	

Present and not voting, 2:

Byars	Heidemann
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Excused and not voting, 6:

Aguilar	Cudaback	Pedersen, Dw.
Combs	McDonald	Preister

The Chambers motion to reconsider failed with 19 ayes, 22 nays, 2 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Pending.

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 158.** Introduced by Stuhr, 24; Bourne, 8.

**PURPOSE:** To study the topic of human trafficking in the state and whether or not current statutes are adequate to address this issue. Issues addressed by this interim study may include, but are not limited to, the following:

- (1) Collect and organize data on the nature and extent of trafficking in persons in the state;
- (2) Investigate collaborative models for protecting victims of trafficking;
- (3) Measure and evaluate the progress of the state in:
  - (a) Preventing trafficking;
  - (b) Protecting and providing assistance to victims of trafficking; and
  - (c) Prosecuting persons engaged in trafficking;
- (4) Identify available federal, state, and local programs that provide services to victims of trafficking that include, but are not limited to, health care, human services, housing, education, legal assistance, job training or preparation, interpreting services, English as a second language classes, voluntary repatriation, and victim's compensation;
- (5) Evaluate approaches to increase public awareness of trafficking;
- (6) Analyze existing state criminal statutes for their adequacy in addressing trafficking and, if such analysis determines that those statutes are inadequate, recommend revisions to those statutes or the enactment of new statutes that specifically define and address trafficking; and
- (7) Consult with governmental and nongovernmental organizations in developing recommendations to strengthen state and local efforts to prevent trafficking, protect and assist victims of trafficking, and prosecute traffickers.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 159.** Introduced by Stuhr, 24; Jensen, 20.

**PURPOSE:** The purpose of this interim study is to study the advantages and disadvantages of enacting a safe haven law in the state. Several bills have been introduced dealing with concerns surrounding this topic. Issues addressed by this interim study may include, but are not limited to, the following:

- 1) Data on the nature and extent of infant abandonment in Nebraska;
- 2) The progress of the state in preventing infant abandonment;
- 3) Federal, state, and local programs available that provide services to women facing unplanned or crisis pregnancy, or others who might abandon an infant;
- 4) Approaches to increase public awareness of infant abandonment and the alternatives to abandonment;
- 5) Legislation in other states and how they have dealt with infant abandonment;
- 6) Existing state statutes and their adequacy in addressing infant abandonment; and
- 7) Consultations with governmental and nongovernmental organizations in developing recommendations to strengthen state and local efforts to prevent infant abandonment.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 160.** Introduced by Kremer, 34.

**PURPOSE:** The purpose of this interim study is to examine lending to grain warehouses secured in part or in whole by grain inventories. The study shall examine the Grain Warehouse Act and other law governing the position of grain warehouse creditors in relation to valid storers, owners, and depositors of grain in the disposition of grain inventories seized in regulatory interventions of the Public Service Commission. The object of the study is to determine whether existing policy is optimal in terms of the ability of the grain industry to secure financing and in terms of maximizing the availability of warehouses to offer marketing options and payment security for producers and other depositors of grain.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **GENERAL FILE**

**LEGISLATIVE BILL 500.** Senator Chambers offered the following motion:

Bracket LB 500 until June 3, 2005.

Pending.

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Stuhr asked unanimous consent to have her name added as cointroducer to LB 90. No objections. So ordered.

### **ADJOURNMENT**

At 7:35 p.m., on a motion by Senator Landis, the Legislature adjourned until 9:00 a.m., Wednesday, May 18, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**EIGHTIETH DAY - MAY 18, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****EIGHTIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, May 18, 2005

**PRAYER**

The prayer was offered by Senator Redfield.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Dw. Pedersen who was excused; and Senators Brown, Byars, Langemeier, Pahls, Raikes, Thompson, and Wehrbein who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the seventy-ninth day was approved.

**NOTICE OF COMMITTEE HEARING**

**Agriculture**  
Room 1524

Wednesday, May 25, 2005  
Greg Ibach - Department of Agriculture

8:00 a.m.

(Signed) Bob Kremer, Chairperson

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 161.** Introduced by Stuthman, 22.

**PURPOSE:** The purpose of this study is to examine trailer licensing statutes and procedures and to simplify and recodify the current statutes. The study should include, but not be limited to, a study of how other states organize their trailer licensing and registration statutes. The study shall also take into account the fiscal impact on those using trailers as well as how the system can be equitably improved. In doing so, the study should examine the feasibility of online day-trip permits, for those seeking to temporarily use

their trailer for a purpose other than what is permitted pursuant to their permanent license plate.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 162.** Introduced by Stuthman, 22.

PURPOSE: To examine the creation of the statutory framework to allow cities, counties, and other jurisdictional entities to create tax development districts to fund infrastructure development. The study will examine the potential benefits and drawbacks of such a system in the State of Nebraska. The study shall include, but not be limited to:

- (1) The fiscal impact to the state and local governmental entities; and
- (2) An examination of Missouri's statutes relating to tax development districts and their effect on the Missouri economy.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 163.** Introduced by Stuthman, 22.

PURPOSE: To examine the problem of misuse of emergency rooms for minor ailments, which results in increased health care costs and the waste of taxpayer dollars, and diverts emergency room professionals from attending to the critically ill. This study shall examine the feasibility of implementing an emergency room coordinator that could direct those patients who need minor, nonemergency medical attention to another resource.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 164.** Introduced by Stuthman, 22.

**PURPOSE:** To examine the implementation of a requirement that motor vehicle insurance providers notify the Department of Motor Vehicles when a motorist drops liability insurance for his or her motor vehicle. This study shall include, but not be limited to, examining the costs to society due to uninsured motorists on the highways. This study shall also focus on the administrative costs and the logistical feasibility of implementing such a requirement.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 165.** Introduced by Baker, 44.

**PURPOSE:** On May 11, 2005, the President of the United States signed House Bill 1268, which became Public Law 109-13. Portions of this legislation pertain to improving security for drivers' licenses and personal identification cards. The purpose of this study is to analyze the federal requirements regarding drivers' licenses and identification cards contained in Public Law 109-13 to ensure stated compliance with the federally mandated time frame of three years. The study shall consider the minimum document requirements, minimum issuance standards, evidence of lawful status, issues relating to temporary drivers' licenses and identification cards, the verification of documents, and any other federal requirements related to this issue.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 166.** Introduced by Combs, 32.

**PURPOSE:** The purpose of this study is to examine uses of and controls on the Nebraska Resources Development Fund. The examination shall include, but not be limited to, the following issues:

(1) The formula by which recreation benefits are calculated to meet the three percent return-on-investment requirement;

(2) Application and enforcement of section 2-3229, which requires that recreational and park facilities be in conformance with any outdoor recreation plan for Nebraska as developed by the Game and Parks Commission;

(3) Use of eminent domain power for projects which are primarily for recreation;

(4) Protocol for cultural resources surveys; and

(5) The requirement in Title 256 (Chapter 4, 001) of the Nebraska Administrative Code that the findings and recommendations of the Director of Natural Resources regarding a Nebraska Resources Development Fund assisted project can only be challenged by a unanimous vote of the Nebraska Natural Resources Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**MOTIONS - Approve Appointments**

Senator Schimek moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 1514:

Chief Information Officer

Brenda L. Decker

Voting in the affirmative, 30:

Aguilar	Cornett	Friend	Johnson	Redfield
Baker	Cudaback	Heidemann	Landis	Schimek
Bourne	Cunningham	Howard	Louden	Smith
Burling	Erdman	Hudkins	Mines	Stuhr
Combs	Fischer	Janssen	Pederson, D.	Stuthman
Connealy	Flood	Jensen	Preister	Synowiecki

Voting in the negative, 0.

Present and not voting, 11:

Beutler	Engel	Kremer	Price
Brashear	Foley	Kruse	Schrock
Chambers	Kopplin	McDonald	

Excused and not voting, 8:

Brown	Langemeier	Pedersen, Dw.	Thompson
Byars	Pahls	Raikes	Wehrbein

The appointment was confirmed with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

Senator Schimek moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 1514:

Accountability and Disclosure Commission  
Kim Quandt

Voting in the affirmative, 31:

Aguilar	Cudaback	Hudkins	McDonald	Stuhr
Baker	Cunningham	Janssen	Mines	Stuthman
Bourne	Erdman	Jensen	Pederson, D.	Synowiecki
Burling	Flood	Johnson	Preister	
Combs	Friend	Kopplin	Redfield	
Connealy	Heidemann	Landis	Schimek	
Cornett	Howard	Louden	Smith	

Voting in the negative, 0.

Present and not voting, 10:

Beutler	Chambers	Fischer	Kremer	Price
Brashear	Engel	Foley	Kruse	Schrock

Excused and not voting, 8:

Brown	Langemeier	Pedersen, Dw.	Thompson
Byars	Pahls	Raikes	Wehrbein

The appointment was confirmed with 31 ayes, 0 nays, 10 present and not voting, and 8 excused and not voting.

**BILLS ON FINAL READING**

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 737.** With Emergency.

A BILL FOR AN ACT relating to claims against the state; to appropriate funds for the payment of certain claims; to provide for payment of the claims; to authorize certain write-offs as prescribed; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Aguilar	Connealy	Friend	Kruse	Redfield
Baker	Cornett	Heidemann	Landis	Schimek
Beutler	Cudaback	Howard	Louden	Schrock
Bourne	Cunningham	Hudkins	McDonald	Smith
Brashear	Engel	Janssen	Mines	Stuhr
Brown	Erdman	Jensen	Pederson, D.	Stuthman
Burling	Fischer	Johnson	Preister	Synowiecki
Chambers	Flood	Kopplin	Price	Thompson
Combs	Foley	Kremer	Raikes	

Voting in the negative, 0.

Excused and not voting, 5:

Byars	Langemeier	Pahls	Pedersen, Dw.	Wehrbein
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 421 with 37 ayes, 2 nays, 5 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 421.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2003, LB 46A, section 6; Laws 2003, LB 404, section 19; Laws 2003, LB 406, sections 8 and 9; Laws 2003, LB 407, sections 94, 104, 105, 107, 118, 119,

138, and 254; and Laws 2004, LB 1089, sections 17, 18, 19, 20, 21, 22, 24, 25, 26, 28, 31, 46, 47, 50, 52, 55, 59, 60, 61, 62, 66, 68, 70, 76, 77, 86, 95, 98, 103, 105, 106, 107, 108, 109, 111, 112, 114, 116, 119, 120, 123, 127, 138, 140, 142, 143, 146, 147, 149, 150, 158, 167, 177, 178, 179, 181, 185, 186, 191, 193, 195, 196, 199, 200, 201, 202, 206, 210, 217, 221, 225, 228, 231, 233, and 235; to define terms; to provide, change, and eliminate provisions relating to appropriations; to provide for transfers; to repeal the original sections; to outright repeal Laws 2004, LB 1084A, section 1; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Aguilar	Connealy	Friend	Kruse	Redfield
Baker	Cornett	Heidemann	Landis	Schimek
Beutler	Cudaback	Howard	Louden	Schrock
Bourne	Cunningham	Hudkins	McDonald	Smith
Brashear	Engel	Janssen	Mines	Stuhr
Brown	Erdman	Jensen	Pederson, D.	Stuthman
Burling	Fischer	Johnson	Preister	Synowiecki
Chambers	Flood	Kopplin	Price	Thompson
Combs	Foley	Kremer	Raikes	

Voting in the negative, 0.

Excused and not voting, 5:

Byars	Langemeier	Pahls	Pedersen, Dw.	Wehrbein
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### ANNOUNCEMENT

The Chair announced today is Senator Engel's birthday.

### BILLS ON FINAL READING

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 422.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of the salaries and benefits of certain state officers for FY2005-06 and FY2006-07; to define terms; to provide an operative date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 43:

Aguilar	Cornett	Heidemann	Landis	Schimek
Baker	Cudaback	Howard	Louden	Schrock
Bourne	Cunningham	Hudkins	McDonald	Smith
Brashear	Engel	Janssen	Mines	Stuhr
Brown	Erdman	Jensen	Pederson, D.	Stuthman
Burling	Fischer	Johnson	Preister	Synowiecki
Chambers	Flood	Kopplin	Price	Thompson
Combs	Foley	Kremer	Raikes	
Connealy	Friend	Kruse	Redfield	

Voting in the negative, 1:

Beutler

Excused and not voting, 5:

Byars                      Langemeier      Pahls                      Pedersen, Dw. Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 423.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the payment of salaries of members of the Nebraska Legislature and payments to be made as provided by Chapter 68, article 6, for FY2005-06 and FY2006-07; to provide an operative date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Aguilar	Connealy	Friend	Kruse	Redfield
Baker	Cornett	Heidemann	Landis	Schimek
Beutler	Cudaback	Howard	Louden	Schrock
Bourne	Cunningham	Hudkins	McDonald	Smith
Brashear	Engel	Janssen	Mines	Stuhr
Brown	Erdman	Jensen	Pederson, D.	Stuthman
Burling	Fischer	Johnson	Preister	Synowiecki
Chambers	Flood	Kopplin	Price	Thompson
Combs	Foley	Kremer	Raikes	

Voting in the negative, 0.

Excused and not voting, 5:

Byars	Langemeier	Pahls	Pedersen, Dw. Wehrbein
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 424 with 38 ayes, 3 nays, 4 present and not voting, and 4 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 424. With Emergency.**

A BILL FOR AN ACT relating to appropriations; to define terms; to appropriate funds for capital construction and property acquisition as prescribed; to state intent; to require program statements; to provide an operative date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Aguilar	Combs	Foley	Kremer	Raikes
Baker	Connealy	Friend	Kruse	Redfield
Beutler	Cornett	Heidemann	Landis	Schimek
Bourne	Cudaback	Howard	Louden	Schrock
Brashear	Cunningham	Hudkins	McDonald	Smith
Brown	Engel	Janssen	Mines	Stuhr
Burling	Erdman	Jensen	Pederson, D.	Stuthman
Byars	Fischer	Johnson	Preister	Synowiecki
Chambers	Flood	Kopplin	Price	Thompson

Voting in the negative, 0.

Excused and not voting, 4:

Langemeier    Pahls                      Pedersen, Dw. Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **MOTION - Return LB 425 to Select File**

Senator Chambers moved to return LB 425 to Select File for his specific pending amendment, AM1632, found on page 1557.

Senator Foley requested a point of order as to whether LB 425, the Mainline State Appropriation Bill, can be amended after the 79th Legislative Day inasmuch as Rule 8, Section 5, requires the Appropriations bills be passed no later than the 80th Legislative Day.

The Chair overruled the Foley point of order stating that notwithstanding the provision of Rule 8, Section 5, nothing precludes or prohibits any member from offering any motion or amendment to the Appropriations bills at any time. Furthermore, Rule 8, Section 5, provides no penalty or remedy for not meeting the prescribed 80th Legislative Day requirement, and as a result, operates primarily as a guideline for enacting the State Budget.

The Chambers motion to return failed with 14 ayes, 19 nays, 12 present and not voting, and 4 excused and not voting.

### **BILLS ON FINAL READING**

#### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 425 with 34 ayes, 3 nays, 8 present and not voting, and 4 excused and not voting.

The following bill was put upon final passage:

#### **LEGISLATIVE BILL 425. With Emergency.**

A BILL FOR AN ACT relating to appropriations; to state intent; to define terms; to make appropriations for the expenses of Nebraska State Government for the biennium ending June 30, 2007; to transfer funds; to provide duties; to provide an operative date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the

emergency clause attached?" "

Voting in the affirmative, 34:

Aguilar	Cornett	Howard	Kruse	Raikes
Baker	Cudaback	Hudkins	Landis	Schrock
Brashear	Cunningham	Janssen	Louden	Stuhr
Brown	Engel	Jensen	McDonald	Stuthman
Burling	Fischer	Johnson	Mines	Synowiecki
Byars	Flood	Kopplin	Pederson, D.	Thompson
Combs	Heidemann	Kremer	Preister	

Voting in the negative, 10:

Beutler	Chambers	Erdman	Price	Schimek
Bourne	Connealy	Friend	Redfield	Smith

Present and not voting, 1:

Foley

Excused and not voting, 4:

Langemeier    Pahls                      Pedersen, Dw. Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 426 with 34 ayes, 4 nays, 7 present and not voting, and 4 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 426. With Emergency.**

A BILL FOR AN ACT relating to funds; to amend sections 47-632, 72-816, 72-1005, 77-2602, 77-27,137.01, 81-15,101.01, 81-15,104, 81-15,113.01, 85-302, and 85-316, Reissue Revised Statutes of Nebraska, and sections 18-2603, 71-7611, and 81-1561, Revised Statutes Supplement, 2004; to create funds and provide powers and duties relating to capital construction, low-level radioactive waste compact litigation, environmental remediation, the Nebraska State Fair, and the Ferguson House as prescribed; to add and change provisions relating to state college audits and certain funds; to transfer funds; to eliminate obsolete provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 39:

Aguilar	Combs	Howard	Landis	Redfield
Baker	Cornett	Hudkins	Louden	Schimek
Beutler	Cudaback	Janssen	McDonald	Schrock
Bourne	Cunningham	Jensen	Mines	Stuhr
Brown	Engel	Johnson	Pederson, D.	Stuthman
Burling	Fischer	Kopplin	Preister	Synowiecki
Byars	Flood	Kremer	Price	Thompson
Chambers	Heidemann	Kruse	Raikes	

Voting in the negative, 4:

Erdman	Foley	Friend	Smith
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Present and not voting, 2:

Brashear	Connealy
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Excused and not voting, 4:

Langemeier	Pahls	Pedersen, Dw.	Wehrbein
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **MOTION - Return LB 427 to Select File**

Senator Chambers moved to return LB 427 to Select File for his specific pending amendment, AM1633, found on page 1557.

Senator Chambers requested a record vote on his motion to return.

Voting in the affirmative, 18:

Aguilar	Chambers	Howard	Preister	Synowiecki
Beutler	Connealy	Kopplin	Price	Thompson
Bourne	Cornett	Landis	Raikes	
Brown	Cudaback	Mines	Schimek	

Voting in the negative, 21:

Baker	Erdman	Heidemann	Louden	Stuthman
Burling	Fischer	Hudkins	Pederson, D.	
Byars	Flood	Jensen	Redfield	
Combs	Foley	Kremer	Smith	
Engel	Friend	Kruse	Stuhr	

Present and not voting, 6:

Brashear	Janssen	McDonald
Cunningham	Johnson	Schrock

Excused and not voting, 4:

Langemeier	Pahls	Pedersen, Dw.	Wehrbein
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The Chambers motion to return failed with 18 ayes, 21 nays, 6 present and not voting, and 4 excused and not voting.

### **BILL ON FINAL READING**

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 427.** With Emergency.

A BILL FOR AN ACT relating to the Cash Reserve Fund; to amend sections 81-1201.21 and 84-612, Revised Statutes Supplement, 2004; to provide for, change, and eliminate completed fund transfers; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 35:

Aguilar	Combs	Foley	Kopplin	Pederson, D.
Baker	Cornett	Heidemann	Kremer	Raikes
Beutler	Cudaback	Howard	Kruse	Redfield
Brashear	Cunningham	Hudkins	Landis	Schimek
Brown	Engel	Janssen	Louden	Schrock
Burling	Fischer	Jensen	McDonald	Stuhr
Chambers	Flood	Johnson	Mines	Stuthman

Voting in the negative, 8:

Bourne	Friend	Price	Synowiecki
Erdman	Preister	Smith	Thompson

Present and not voting, 2:

Byars                      Connealy

Excused and not voting, 4:

Langemeier      Pahls                      Pedersen, Dw. Wehrbein

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **SELECT COMMITTEE REPORT**

#### **Enrollment and Review**

#### **Correctly Engrossed**

The following bill was correctly engrossed: LB 364.

(Signed) Michael Flood, Chairperson

### **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 167.** Introduced by Bourne, 8.

**PURPOSE:** To examine the need to redact children's social security numbers and other identifying factors from child support orders in dissolution of marriage decrees. The study shall include, but not be limited to: The action taken by Congress in adopting the E-Government Act of 2002 to better protect the information of children in court orders as well as other sensitive identifying information that could compromise a person for identity theft; the option to file necessary identifiers under seal with the court and a redacted copy for public access; studying the effect of any potential legislation on the State Disbursement Unit in child support collection; and the current status of Nebraska law that allows for nondisclosure of information in exceptional circumstances.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution, with the assistance of the Nebraska Supreme Court and State Treasurer.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 168.** Introduced by Bourne, 8.

**PURPOSE:** To examine the need to establish the Office of Public Guardianship within the Supreme Court. The Office of Public Guardianship

would provide public guardians to persons when there is no one suitable or available to fulfill guardianship duties.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 169.** Introduced by Bourne, 8.

PURPOSE: To examine the use of contempt actions in child custody and visitation orders. The study shall include, but not be limited to: Examination of the number of contempt actions filed in Nebraska courts in 2004 that relate to child custody or visitation; the amount of time it takes to hear a contempt action from the time of filing the motion until the court opines on the motion; and the ratio of the number of contempt actions filed versus those actually completed. The study will determine if there is a procedure needed in child custody orders to better ensure that parties will follow the court order without resulting in the need for contempt actions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 170.** Introduced by Synowiecki, 7.

PURPOSE: The purpose of this study is to examine Nebraska statutes relative to condominium conversions and possible changes to such statutes. The study should include a detailed evaluation of:

(1) The current legal "exit strategy" for owners of aging buildings;

(2) The rights of current residents and condominium buyers, including rights to an independent building inspection for potential structural and health hazards; and

(3) Potential exemptions from purchase for the elderly and disabled.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative

Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 171.** Introduced by Synowiecki, 7.

**PURPOSE:** The purpose of this study is to review Nebraska's existing system of establishing qualifications for health care translators and interpreters and to consider the possibility of establishing an advisory committee on qualifications for health care translators and interpreters. The study should include consideration of the organization and the duties of such advisory committee.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 172.** Introduced by Synowiecki, 7.

**PURPOSE:** The Legislature recognizes that there are significant discrepancies relative to how fees and fines for false home alarms are imposed by political subdivisions in Nebraska. The purpose of this study is to examine how fees and fines for false home alarms are calculated and imposed. The study should include recommendations for establishing a more equitable and consistent system for imposing fees and fines for false home alarms.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 173.** Introduced by Business and Labor Committee: Cunningham, 40; Chairperson; Burling, 33; Combs, 32; Kremer, 34; Preister, 5; Schimek, 27.

**PURPOSE:** To study the state's laws regarding claims brought forth under the annual state claims bill. The study shall include, but not be limited to:

(1) The evaluation of agency rules and regulations in evaluating, processing, and investigating those claims against the state that are filed

under the acts that are included in the state claims bill;

(2) An evaluation of the process and procedures used for expired warrants and determining the appropriate manner for providing consistency in processing and approving expired warrants; and

(3) Determining the appropriate amount of information that shall be provided to the Legislature when the state claims bill is brought forth.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Business and Labor and the Government, Military and Veterans Affairs Committees of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of their joint study make a report of their findings, together with their recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 174.** Introduced by Landis, 46.

PURPOSE: The purpose of this study is to explore the need of institutions of higher education to attract and retain outstanding faculty through the use of publicly funded endowment funds and other means. The study shall include, but not be limited to:

(1) An inventory of states with programs to attract and retain outstanding faculty, including state-financed or supplemented faculty endowment programs;

(2) A review of the success of these programs in terms of hiring and retaining outstanding faculty and obtaining private endowment matching funds;

(3) An assessment of faculty positions unfilled due to non-competitive salaries offered at the University of Nebraska; and

(4) Other issues raised through the introduction of LB 47, Ninety-ninth Legislature, First Session.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 175.** Introduced by Landis, 46.

PURPOSE: To study the overall structure of Nebraska's Low-Income Home Energy Assistance Program (LIHEAP) and potential alternative funding sources.

The Low-Income Home Energy Assistance Program is underfunded by

the federal government and does not adequately meet the needs of eligible Nebraskans. Energy assistance is a critical support program for many low-income, disabled, elderly, and other Nebraskans. Lack of adequate funding for energy assistance in Nebraska has dramatic negative effects on the health and welfare of individuals and families. Input shall be solicited from the Nebraska Health and Human Services System, various private and nonprofit organizations, utility providers, and utility consumers to examine alternative state, private, and other funding mechanisms to increase funds viable under Nebraska's energy assistance programs. The study shall also include a review of programs in other states in order to improve Nebraska's energy assistance programs.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 176.** Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Bourne, 8; Erdman, 47; D. Pederson, 42; Price, 26; Synowiecki, 7.

**PURPOSE:** The purpose of this study is to examine various actuarial and accounting mechanisms that can be appropriately utilized in order to resolve or minimize state actuarial contributions required for each of the public retirement systems administered by the Public Employees Retirement Board.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 177.** Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Bourne, 8; Erdman, 47; D. Pederson, 42; Price, 26; Synowiecki, 7.

**PURPOSE:** The purpose of this study is to examine the five public employee retirement systems administered by the Public Employees Retirement Board. The study shall examine issues as they relate to the

funding needs of the various retirement systems and the administration of each system.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 178.** Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Bourne, 8; Erdman, 47; D. Pederson, 42; Price, 26; Synowiecki, 7.

**PURPOSE:** The purpose of this study is to examine items defined as compensation in subdivision (35)(a) of section 79-902 as each pertains to the School Employees Retirement System of the State of Nebraska and to determine whether such provisions are appropriate in order to ensure uniformity among school districts and school boards. The study should examine other technical corrections and clarification of statutory language for the School Employees Retirement Act. In addition, modifications to the system's benefits or contribution processes may be considered.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 179.** Introduced by Kruse, 13.

**PURPOSE:** To study the issue of dramshop liability, including, but not limited to:

(1) Issues related to licensee liability to innocent third parties for providing alcohol to intoxicated persons;

(2) Issues related to liability of social hosts; and

(3) Mandatory training for licensees and their employees in identification and handling of intoxicated persons.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 180.** Introduced by Smith, 48.

**PURPOSE:** To assess the impact of Nebraska changing to a "home rule" state in matters of local concern, except for the provision of public utilities adequately provided by private entities. This study shall include, but not be limited to:

- (1) Identifying state and local concerns;
- (2) Studying the impact of the "home rule" change on taxation, public utilities, the judicial system, licensing, and other political subdivisions; and
- (3) Studying how such change could be implemented effectively.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 181.** Introduced by Beutler, 28.

**PURPOSE:** The goal of this interim study is to study ways in which to improve the state's ability to monitor high-risk sex offenders upon their release from state custody.

In November of 2003, Dru Sjodin, a young woman from North Dakota, was abducted from a mall parking lot and murdered. Law enforcement's investigation of Ms. Sjodin's disappearance led them to Alfonso Rodriguez, Jr., a high-risk sex offender who had recently been released after serving 23 years in a Minnesota prison.

In response to this tragedy, the United States Senate passed the "Dru Sjodin National Sex Offender Public Database Act of 2004" or, more simply, "Dru's Law." Dru's Law would include new requirements for the tracking of sex offenders at both the national and state levels. With respect to the former, the bill would create a national sex offender data base and registry that could be accessed by the public via the Internet. As for the latter, the impending release of certain sex offenders would trigger a notice to the appropriate state Attorney General, who would then determine whether to initiate civil commitment proceedings. The bill would also require states to "intensively monitor" sexual predators and high-risk sex offenders for a period of at least one year upon the completion of their full sentence and subsequent release from prison. Similar legislation was

introduced in the United States House of Representatives in 2004, but the House took no action on the bill before adjourning.

Dru's Law was recently reintroduced in both the United States Senate and United States House of Representatives. In 2005, a series of high-profile child abductions in Florida and Iowa also focused the nation's attention on the issue of monitoring sex offenders. These abductions, as well as other incidents involving sex offenders in recent years, are indicative of the need to evaluate and intensify the monitoring of high-risk sex offenders who are released back into society. The timing is ripe for such an evaluation on a state-by-state basis, particularly in light of technological advances in the electronic monitoring industry such as the increasing use of Global Positioning System, or GPS monitoring, as well as the likelihood of action at the federal level. If Dru's Law, as currently drafted, were to pass, states would have three years in which to implement its requirements. Failure to do so would result in the loss of certain federal funds.

It is the intent of the Legislature that this interim study will (1) review other states' efforts to protect the public by adopting more stringent supervision requirements for certain sex offenders, (2) evaluate Nebraska's current policies and practices with respect to the supervision of high-risk sex offenders, and (3) consider statutory changes designed to enhance the state's ability to monitor such offenders upon their release from custody.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 182.** Introduced by Beutler, 28.

**PURPOSE:** The goal of this interim study is to analyze the scope of Article IV, section 5, of the Nebraska Constitution.

Article IV, section 5, states that "[a]ll civil officers of this state shall be liable to impeachment for any misdemeanor in office." LR 26CA (2005), which was heard by the Judiciary Committee, proposed to expand this provision to provide for impeachment "for any misdemeanor in office or for any misdemeanor related to the election by which such officer was elected to the office." During the hearing on LR 26CA, the issue was raised regarding the meaning of the phrase "misdemeanor in office."

It is the intent of the Legislature that this interim study will examine the history of Article IV, section 5, and other related constitutional provisions, as well as case law and other relevant authority regarding the impeachment or removal of "civil officers" in analyzing the scope of the phrase "misdemeanor in office."

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 183.** Introduced by Beutler, 28.

**PURPOSE:** The goal of this interim study is to examine the Motor Vehicle Service Contract Reimbursement Insurance Act.

In June of 2003, National Warranty Insurance Company (hereinafter National Warranty) filed for the Cayman Islands' version of bankruptcy protection. National Warranty was a risk retention group that maintained its headquarters in Lincoln, but was organized under the laws of the Cayman Islands and the federal risk retention act. The company insured several hundred group members, most of which sold a variety of motor-vehicle related services including motor vehicle service contracts.

In August of 2003, a court in the Cayman Islands determined that National Warranty's assets should be liquidated. As the liquidation progressed, the company, its members, and dealers disagreed as to who was responsible for the claims of individual vehicle owners. As a result, many Nebraska consumers and other consumers across the country found that their vehicle services contracts were essentially worthless.

In the wake of National Warranty's collapse, which was one of several industry failures, the Legislature's Banking, Commerce and Insurance Committee conducted an interim hearing to study various issues regarding the operation of risk retention groups and the regulation of motor vehicle service contracts. After this interim hearing, the Department of Insurance continued its investigation of National Warranty and its evaluation of Nebraska's Motor Vehicle Service Contract Reimbursement Insurance Act. LB 652, as modified by an amendment presented at the committee hearing, was the result of the department's efforts to protect Nebraska consumers by strengthening this act.

LB 652 was heard by the Banking, Commerce and Insurance Committee on February 8, 2005. After the hearing, the department worked with the bill's opponents to craft language that was acceptable to the motor vehicle service contract industry while still serving to protect the public. Over the course of several months, the interested parties met and exchanged drafts. Despite these efforts, a compromise has not yet been reached, and the committee has not yet advanced LB 652 to General File. There does, however, appear to be some consensus that the current regulatory scheme is inadequate and needs to be strengthened.

It is the intent of the Legislature that this interim study will consider ways to improve the Motor Vehicle Service Contract Reimbursement Insurance Act to reduce the public's risk in the event of another large-scale failure within the industry.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

## NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**MOTION - Reconsider Action on LB 748**

Senator Chambers renewed his pending motion, found on page 1433, to reconsider the vote to recommit LB 748 to committee.

Pending.

**RESOLUTIONS****LEGISLATIVE RESOLUTION 184.** Introduced by Smith, 48.

**PURPOSE:** To investigate the reasons for the large increase in the number of school administrators in Nebraska from the 1970-1971 school year to the present, compared with the sharp decline in the overall number of school districts within the same period. The study shall include, but not be limited to:

(1) Identifying the factors causing the increase in administrators and the justification for the increase;

(2) Quantifying administrators by district;

(3) A description of duties performed by administrators; and

(4) The proportion of each school district's budget devoted to administrators' salaries, benefits, travel expenses, and budget or operational costs. The goal of this study is to look for inefficiencies and duplication of administration within our educational system and to provide taxpayers an effective tool with which to evaluate school districts.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 185.** Introduced by Smith, 48.

**PURPOSE:** To formulate a plan to implement the option of allowing

contract schools to operate within public school districts. The study shall include, but not be limited to, identifying contract school procedures and policies that would best fit Nebraska's public education system.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 186.** Introduced by McDonald, 41.

PURPOSE: The purpose of this study is to examine matters and issues related to the Gamblers Assistance Program, including, but not limited to, assessing and quantifying the cause of the increase in demand for problem gambling services, the provision of nonreimbursed services by contractual providers of problem gambling services, the obligations and requirements in problem gambling services contracts required by the Nebraska Health and Human Services System, the need for gambling prevention programs for youths, adults, and the elderly, the need for program evaluation to determine the success of the current problem gambling program and its services, the distribution and accessibility of problem gambling services in the state, and whether current funding allows the Gamblers Assistance Program to meet the service needs of Nebraska citizens who are problem gamblers.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 187.** Introduced by Bourne, 8.

PURPOSE: To evaluate the Nebraska Department of Health and Human Services' compliance with the federal Adoption and Safe Families Act of 1997 and Nebraska law with respect to the placement of children who are removed from their home. The federal act and Nebraska statutes sections 43-533 and 43-1312 direct that preference shall be given to a relative when determining placement of a child. The study shall include, but not be limited to, an examination of temporary and permanent placements initiated by the state, reviews conducted by the United States Department of Health and Human Services Children's Bureau and the Administration for Children and

Families, methods utilized by the Nebraska Department of Health and Human Services to locate relatives for placement options, and past and pending court cases challenging placement of children outside of the family.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 188.** Introduced by Bourne, 8.

PURPOSE: The purpose of this study is to review the issues raised by LB 163, as heard by the Urban Affairs Committee during this First Session of the Ninety-ninth Legislature, most particularly to analyze the formula used to determine the qualification for and disbursement of money from the Mutual Finance Assistance Fund. This study should include, but not be limited to, an examination of the current and potential funding sources and amounts available for distribution to mutual finance organizations and an examination of the cities and fire protection districts currently receiving these funds and the changes in distribution that could result from the provisions proposed in LB 163.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 189.** Introduced by Stuhr, 24; Erdman, 47; Price, 26.

PURPOSE: The purpose of this study is to review the retirement system created under the Class V School Employees Retirement Act. The study may include, but is not limited to, the following:

(1) Examine the conversion and transfer of new members and current members who elect to transfer from the retirement system created under the Class V School Employees Retirement Act into the retirement system created under the School Employees Retirement Act;

(2) Examine placing the administration of the Class V retirement system under administration of the Public Employees Retirement Board; and

(3) Compare benefits in the Class V retirement system and the School Employees Retirement System of the State of Nebraska. The intent of the study is the drafting of legislation designed to perform such a transfer and conversion and a report detailing the benefits of each system.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 190.** Introduced by Beutler, 28; Bourne, 8.

PURPOSE: This study shall determine whether Article IV, section 20, of the Constitution of Nebraska should be amended to increase the membership of the Public Service Commission to not less than seven members.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Executive Board of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the board shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 191.** Introduced by Dw. Pedersen, 39.

PURPOSE: It is estimated that 17.5% of the inmates in the Nebraska correctional system suffer from a mental illness and roughly 80% suffer from a substance abuse problem. However, in spite of the fact that mental illness and substance abuse are prominently featured among our prison population, the State of Nebraska thus far allocates only a small amount of its correctional budget to mental health and substance abuse services.

Nebraska correctional facilities have only a handful of beds for treatment of inmates who suffer from acute mental illnesses and generally provide very limited services for the treatment of other inmates who are mentally ill. The result is that many mentally ill inmates in Nebraska's prisons are simply being "warehoused" in segregation cells. As for the mentally ill inmates who are maintained in the general populations of the state's correctional facilities, they are often vulnerable to exploitation by other inmates, and otherwise create significant management problems for correctional staff. Frequently, mentally ill inmates are released from custody without being adequately prepared for coping with life outside of an institution and for living within

society's legal norms.

While substance abuse programming does exist in the correctional system, it is often based on evaluations that are performed when inmates first come into the correctional system. The stand-alone treatment facility was shut down during recent budget cuts and in-patient treatment is now being offered in several facilities. In addition, the Department of Correctional Services offers outpatient programs including educational groups, self-help groups such as Alcoholics Anonymous and Narcotics Anonymous, and aftercare programs, but the need far exceeds the opportunity and is usually made available only to inmates nearing the end of their sentences prohibiting newly arriving inmates who seek to get clean and turn their lives around with no opportunity to do so in a timely fashion. There seems to be a shortage of staffing, particularly for certified alcohol and drug counselors and problems with inmates being able to complete programming without incurring disciplinary problems resulting in termination from the programs. There are also significant issues relating particularly to women and substance abuse that are not being fully addressed.

This resolution calls for an interim study of the extent, nature, and quality of mental health and substance abuse services that are currently being provided in Nebraska's correctional system. The study should include an examination of all of the aspects of the treatment provided to mentally ill prisoners in the system and all of the implications of a situation where the correctional system fails to provide adequate mental health services for its inmates. The study should particularly look at what other states have tried in order to reform their own correctional systems to provide better mental health and substance abuse services and should also look at the recommendations made by the United States Department of Justice and others for ways to strengthen mental health and substance abuse services in prisons. The study should also determine the needs of inmates who are dually diagnosed with mental illnesses and substance abuse problems, seeking ways to address their specific needs and the availability of programming to treat them.

This resolution also calls for a study of the evaluation process as a means to provide more efficient delivery of services and explore the current range of services offered in the mental health and substance abuse area to improve the care being received as well as provide continuum of care during transition into the community.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 192.** Introduced by Dw. Pedersen, 39.

**PURPOSE:** To study issues surrounding the use of ignition interlock devices for persons who have been convicted of driving under the influence as proposed in LB 678 (2005). Some of the items to be studied should include:

(1) Study federal revocation period requirements for driving under the influence (DUI) necessary for state compliance with federal grant programs;

(2) Study the feasibility of a graduated system of "hard time" revocation periods before ignition interlock devices can be installed;

(3) Study the current statutes regarding fifteen-year and life suspensions and study the feasibility of installing ignition interlock devices during that period of time, including what would be the optimum "hard revocation" time before a person with a fifteen-year license or life suspension can be considered for approval of an ignition interlock device and how long that device must remain installed in their vehicle. Study the proper period of "hard time" revocation if a person refuses to submit to a chemical test;

(4) Study the electronic abstracting process for DUI cases to determine if the Department of Motor Vehicles is receiving adequate information to allow probation orders for ignition interlock devices to be correctly enforced;

(5) Study the courts' probation orders for ignition interlock devices and oversight of persons on probation with ignition interlock device orders to see if there are better ways for probationers to comply with such orders;

(6) Study whether or not ignition interlock device orders should be mandatory in DUI sentences;

(7) Study DUI employment permit statutes to see if uses of employment permits should be expanded, including, but not limited to, allowing drivers with revoked licenses to travel to court-mandated treatment programs and community service; and

(8) Study the need for subsidized access to ignition interlock devices and determine who should manage such a program if it is deemed to be necessary.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 193.** Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Combs, 32; Connealy, 16; Janssen, 15; Schimek, 27.

**PURPOSE:** This study will provide the opportunity for the Urban Affairs Committee of the Legislature to investigate and review matters and issues arising during the interim which are within its jurisdiction and which may be the subject of bills to be introduced in the 2006 legislative session. This would provide the opportunity for a careful review of proposed legislation

and the drafting of such legislation before time constraints and the pace of legislative activity makes studied review more problematic. This process has, in the past, served to facilitate review of bills during the regular session and has helped the committee avoid the need for committee amendments which slow down the consideration of bills by the full legislature.

The study will involve:

(1) A review of any legislation considered by the Urban Affairs Committee during the 2005 legislative session which was either killed by the committee or held in committee to determine what other further action by the committee might be warranted with regard to the particular subjects of the individual bills, the subjects to include, but not be limited to, handicapped parking, the formation and administration of municipal improvement districts, SID's, and planning and zoning;

(2) A review of problems, concerns, or legislation proposed for introduction by senators or other parties for study, technical discussion, or conceptual refinement before the start of the next legislative session; and

(3) The conduct of at least one public hearing to provide an opportunity for public comment and discussion with members of the committee and the public on issues involving matters within the committee's jurisdiction.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 194.** Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Combs, 32; Connealy, 16; Janssen, 15; Schimek, 27.

**PURPOSE:** To study the various statutes governing the qualifications and processes for annexation of territory by the different classes of Nebraska's cities and villages. The study would also review the implications and consequences of annexation as it impacts other political subdivisions and the services received by residents of areas subject to an annexation proposal. Particular attention should be paid to "skip" annexation or "remote" annexation as currently authorized for cities of the second class and villages exercising tax-increment financing authority, the experience of its use, and whether such authority should be extended or repealed.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report

of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 195.** Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Combs, 32; Connealy, 16; Janssen, 15; Schimek, 27.

**PURPOSE:** To further study the issues raised by LB 735 and LB 461 regarding the Community Development Law and tax-increment financing and to study current municipal practices regarding tax-increment financing, the extent to which it is being used, the purposes for which it is devoted, and the impact on general government finances in areas where the authority is exercised. Additionally, the study should address the possibility of drafting a resolution for a constitutional amendment to replace the current tax-increment financing provision with new authorization that more accurately reflects current needs and practices by Nebraska's larger municipalities.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 196.** Introduced by Synowiecki, 7.

WHEREAS, Corporal Shane Kielion of Omaha was an honorable and dedicated soldier and citizen of Nebraska; and

WHEREAS, Corporal Shane Kielion was a member of the United States Marine Corp, 3rd Battalion, 5th Marine Regiment of the 1st Marine Division; and

WHEREAS, Corporal Shane Kielion gave his life in the line of duty on Monday, November 15, 2004; and

WHEREAS, Corporal Shane Kielion will be remembered in the highest regard for his bravery, commitment, and sacrifice to his community, state, and country; and

WHEREAS, Corporal Shane Kielion was a 1999 graduate of Omaha South High School, was an outstanding athlete who was recognized for his achievements as a star quarterback and all conference player, and was recognized for his great leadership abilities; and

WHEREAS, Corporal Shane Kielion will be remembered by all as a son, a brother, a husband, a father, a comrade, a teammate, a friend, and a fallen hero.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature expresses and extends its sympathy and condolences to the family of Corporal Shane Kielion.

2. That a copy of this resolution be provided to the family of Corporal Shane Kielion.

Laid over.

**LEGISLATIVE RESOLUTION 197.** Introduced by Synowiecki, 7.

PURPOSE: The Legislature recognizes that there are significant inequities relative to the salary structure of parole officers in Nebraska. The purpose of this study is to:

(1) Examine the discrepancies in salary;

(2) Compare the salary compensation structure of Nebraska parole officers to that of Nebraska probation officers; and

(3) Consider recommendations to rectify inequities in the salary structure of Nebraska parole officers.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 198.** Introduced by Synowiecki, 7.

PURPOSE: The purpose of this study is to review Nebraska's existing newborn genetic screening privacy laws. The study should examine the possibility of allowing for an exemption to the newborn genetic screening requirements if the parents of the newborn object on religious grounds. Currently, thirty-three states have laws that allow for parental objections based on religious grounds and twelve additional states allow parental objections based on any grounds.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 199.** Introduced by Connealy, 16.

**PURPOSE:** The purpose of this study is to examine issues relating to requiring ten-percent ethanol in every gallon of gasoline sold in Nebraska. The study shall also look at phasing in a twenty-percent ethanol requirement. The study shall focus on increased consumption of Nebraska-produced ethanol and increased production as it relates to consumption in the state. The study shall include information from Montana and Minnesota and other states who have enacted similar legislation and federal energy legislation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 200.** Introduced by Erdman, 47; Jensen, 20; Johnson, 37.

**PURPOSE:** (1) The Legislature finds that:

(a) The Nebraska Health and Human Services System has been entrusted by the Legislature with numerous powers and duties relating to the protection and promotion of the health and welfare of persons in Nebraska;

(b) The system has initiated and expanded numerous programs and services under its administration to carry out such powers and duties;

(c) The Legislature has appropriated General Funds and other funds for such programs and services, but the amount of such appropriations is often less than the amount identified by the system as being necessary and appropriate for such purpose, despite repeated legislative action to increase such appropriations;

(d) State budget constraints are inconsistent with increasing budget needs of programs and services administered by the system; and

(e) Further legislative action is necessary and appropriate to identify and prioritize core responsibilities of the system, to adequately fund such priorities, and to identify nongovernmental alternatives for the administration and funding of nonpriority programs and services.

(2) The Nebraska Health and Human Services System, in consultation with the Health and Human Services Committee of the Legislature, shall:

(a) Identify and categorize the statutory powers and duties of the system and prioritize the programs and services administered by the system to carry out such powers and duties;

(b) Indicate the amount of funding necessary to adequately fund each program or service;

(c) Identify those programs and services which would not be funded if the

FY2004-05 budget for the system was first allocated to each program and service in the order of priority at its adequately funded level; and

(d) Recommend nongovernmental alternatives for the administration and funding of such nonpriority programs and services.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 201.** Introduced by Erdman, 47.

PURPOSE: To conduct a comprehensive review of the committee structure of the standing committees of the Nebraska Legislature. Such review shall include, but not be limited to:

1. The feasibility of ensuring each standing committee is given a legislative day to hold hearings, specifically including the Nebraska Retirement Systems Committee, to ensure the appropriate time and diligence due the issues of the state;

2. Examining the number of committee members per committee and determining the appropriate legislative membership to ensure necessary oversight for those subject areas;

3. Considering potential reorganization, including merging existing standing committees, and, if necessary, creating new committees to ensure committees are appropriately prepared to deal with the subject matter in legislation introduced. This shall include the number of bills referenced to each committee, hearing room assignments, and committee days currently allowed;

4. Examine the impact standing committee changes would have on the districts for the committee on committees; and

5. Review the staff resources committed to the work of each committee.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Executive Board of the Legislative Council shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the board shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 202.** Introduced by Erdman, 47.

PURPOSE: The purpose of this study is to provide information on patterns of spending by government agencies and to determine if government

agencies adjust spending and make purchases to assure that budget authority is completely used up at the end of the fiscal year to avoid the risk of reduction of future appropriations. This study shall include, but not be limited to, gathering information on historical spending patterns of Nebraska government agencies and spending control measures implemented in Nebraska and other states. Input shall be solicited from the Governor, the budget division of the Department of Administrative Services, the Auditor of Public Accounts, the Legislative Fiscal Analyst, state government agencies, academic professionals knowledgeable of the issue, and any other agencies, groups, or individuals with relevant information.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislative Performance Audit Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 203.** Introduced by Erdman, 47.

**PURPOSE:** To review the ability of counties having a population of less than one thousand inhabitants to provide services required under state law.

Counties in rural Nebraska have faced extraordinary financial circumstances in regards to their ability to afford basic services necessary for their residents.

The study shall include a comprehensive review of legislative mandates on small counties which place an undue burden on them to provide basic services. Input should be gathered from all counties having a population of less than one thousand inhabitants to determine similarities between those counties and what potential remedies may be available to them under existing law.

The study shall also include recommendations for changes in state law to allow for remedies for these counties.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 204.** Introduced by Erdman, 47.

**PURPOSE:** The Constitution of Nebraska provides that the Legislature shall provide for free instruction for all persons between the ages of five and twenty-one years and the Nebraska Supreme Court has ruled that statutes related to education should be liberally and broadly construed to provide for free instruction. The Legislature recognizes this obligation and further recognizes that cocurricular and extracurricular activities play an important role in the education of our youth.

The purpose of this study is to consider the steps that can be taken to meet the state's obligation, especially with respect to cocurricular and extracurricular activities, to the five thousand exempt students in Nebraska through the public school system. This study shall include, but not be limited to, reviewing Nebraska laws and the laws of other states related to cocurricular and extracurricular opportunities of exempt students, as well as the rules of school organizations applicable to student participation in cocurricular and extracurricular activities. In addition, information shall be gathered on the number of students and types of programs that could be made available to exempt students. Input shall be solicited from the State Department of Education, The Nebraska School Activities Association, the Nebraska Association of School Boards, the Nebraska Council of School Administrators, education professionals, families, parents of and groups representing parents of exempt students, and any other government agencies, groups, or individuals with relevant information as well as any other interested parties.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 205.** Introduced by Erdman, 47; Redfield, 12.

**PURPOSE:** The purpose of this study is to provide an analysis of Nebraska's compulsory education laws and the enforcement of such laws. Input shall be solicited from educators, school administrators, school board members, and any other government agencies, groups, or individuals with relevant information, as well as any other interested parties.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 206.** Introduced by Foley, 29.

**PURPOSE:** The purpose of this resolution is to study the concept of an "any willing provider" law in Nebraska. In an attempt to control prescription medicine costs, prescription benefit programs are using single provider programs either through prescription benefit managers ("PBMs") or, in some cases, large insurance companies are getting into the pharmacy business. As a part of their agreement with companies providing prescription coverage to their employees, PBMs are demanding exclusivity. Insured employees must use their mail order pharmacy or one of the local pharmacies that has agreed to be part of their network of pharmacies, or the "PBMs" or the insurance company will deny recovery for the cost of the drug. The PBM or insurance company can exercise control over who is allowed to become a local network provider through the requirements for, and process of, approving a provider.

At least 21 states have already passed "any willing provider" laws. The concept of an "any willing provider" law should be carefully considered by the Legislature for the people of Nebraska.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Banking, Commerce and Insurance Committee and the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committees shall upon the conclusion of their joint study make a report of their findings, together with their recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 207.** Introduced by Friend, 10; Aguilar, 35; Kremer, 34.

**PURPOSE:** Current law does not permit cities of the first class to consolidate with cities of the second class or villages, despite the fact that the authority exists for cities of the second class and villages to consolidate with one another. This study would examine the issues underlying such consolidations and the policy considerations and conditions under which such consolidations might be authorized for cities of the first class.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 208.** Introduced by Landis, 46.

**PURPOSE:** The purpose of this study is to continue and improve work done by the Revenue Committee of the Legislature during past interims to inform the Legislature and other interested parties of Nebraska's tax structure compared with the past and with other states. Carrying out the purposes of this study does not involve conducting public hearings, but should result in one or more reports to the Legislature detailing Nebraska's tax structure. Examples of reports conducted pursuant to this study would include the base and rates of Nebraska's sales, income, property, excise, and miscellaneous taxes in comparison to the past or to other states; spending by the state and local governments compared to that of governments in other states; the effectiveness of tax reform legislation enacted in the past; and financial and tax policy implications of tax reform or restructuring proposals that have been proposed during recent legislative sessions or that arise during this interim. This study shall be directed toward gathering information that will assist the Legislature in determining the State of Nebraska's tax structure in future years.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the staff of the Revenue Committee of the Legislature conduct research and coordinate research conducted by other employees of the Legislative Council or other parts of state government to carry out the purposes of this study.

2. That the legislative staff issue one or more reports pursuant to this study that will assist the Legislature in making decisions in future sessions.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 209.** Introduced by McDonald, 41.

**PURPOSE:** The purpose of this study is to examine matters and issues related to the state lottery including, but not limited to: (1) The allotment and expenditure of all lottery revenue generated by the sales of Lotto games and Scratch games; (2) the effect of the passage of LR 209CA, Ninety-eighth Legislature, Second session, on future disbursements to lottery beneficiaries; (3) the ratio of state lottery employees to operating expenses; and (4) agency compliance with Nebraska open meetings laws and the need for additional legislation to clarify agency accountability.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the General Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **MOTION - Reconsider Action on LB 748**

The Chambers pending motion, found on page 1433 and considered in this day's Journal, to reconsider the vote to recommit LB 748 to committee, was renewed.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 2 nays, and 21 not voting.

Senator Chambers moved for a call of the house. The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

The Chambers motion to reconsider failed with 6 ayes, 26 nays, 11 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

### **GENERAL FILE**

**LEGISLATIVE BILL 312A.** Title read. Considered.

Advanced to E & R for review with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 500.** Senator Chambers renewed his pending motion, found on page 1575, to bracket until June 3, 2005.

### **SPEAKER BRASHEAR PRESIDING**

Senator Landis moved the previous question. The question is, "Shall the debate now close?"

Senator Landis moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

The motion to cease debate prevailed with 25 ayes, 2 nays, and 22 not voting.

Senator Chambers requested a roll call vote on his motion to bracket.

Voting in the affirmative, 7:

Bourne	Janssen	Raikes	Synowiecki
Cunningham	Louden	Stuhr	

Voting in the negative, 22:

Baker	Connealy	Flood	Kopplin	Schrock
Beutler	Cornett	Foley	Kremer	Smith
Brown	Cudaback	Friend	Landis	
Burling	Engel	Howard	Mines	
Byars	Erdman	Johnson	Pederson, D.	

Present and not voting, 14:

Aguilar	Fischer	Jensen	Preister	Schimek
Brashear	Heidemann	Kruse	Price	Stuthman
Chambers	Hudkins	McDonald	Redfield	

Excused and not voting, 6:

Combs	Pahls	Thompson
Langemeier	Pedersen, Dw.	Wehrbein

The Chambers motion to bracket failed with 7 ayes, 22 nays, 14 present and not voting, and 6 excused and not voting.

Pending.

## **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 110 and 111 were adopted.

## **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 110 and 111.

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 737, 421, 422, 423, 424, 425, 426, and 427.

## **MOTION - Print in Journal**

Senator Landis filed the following motion to LB 48:

Suspend Rule 6, Section 5 and Rule 7, Sections 3 and 7 and vote on the advancement of LB 48 without further amendment, motion or debate.

## **AMENDMENTS - Print in Journal**

Senator Smith filed the following amendment to LB 70:  
AM1646

(Amendments to AM1156)

- 1 1. Strike amendment 1 and insert the following new
- 2 amendment:
- 3 "1. In the E & R amendments, AM7088, on page 17, line 2,
- 4 strike 'A', show as stricken, and insert '(a) Until January 1,
- 5 2012, a person shall not operate or be a passenger on a motorcycle
- 6 or moped on any highway in this state unless such person is wearing
- 7 eye protection.
- 8 (b) On and after January 1, 2012, a'; and strike
- 9 beginning with 'Except' in line 16 through '(3)' in line 21."

Senator Cunningham filed the following amendment to LB 484:  
AM1250

- 1 1. On page 33, line 14; page 34, lines 12, 13, and 27;
- 2 and page 35, lines 3, 4, and 5, strike "contribution" and insert
- 3 "combined tax".
- 4 2. On page 34, strike beginning with "reduced" in line 3
- 5 through "contributions" in line 4 and insert "lower combined tax
- 6 rate"; and in lines 15 and 16 strike "rate of contribution" and
- 7 insert "combined tax rate".

Senator Cunningham filed the following amendment to LB 237:  
AM0847

- 1 1. Insert the following new section:
- 2 "Sec. 4. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

## STANDING COMMITTEE REPORTS

### Health and Human Services

**LEGISLATIVE RESOLUTION 65.** Reported to the Legislature for further consideration.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Mary Ann Burke - Commission for the Deaf and Hard of Hearing  
Michael J. Carruthers - Commission for the Deaf and Hard of Hearing  
Daniel R. Darnall - Commission for the Deaf and Hard of Hearing  
Luana Duennerman - Commission for the Deaf and Hard of Hearing

VOTE: Aye: Senator Jensen, Byars, Cunningham, Johnson, Stuthman, and Howard. Nay: None. Absent: Senator Erdman.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Steven Dokken - Rural Health Advisory Commission

VOTE: Aye: Senator Jensen, Byars, Cunningham, Johnson, Stuthman, and Howard. Nay: None. Absent: Senator Erdman.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

James C. Schiefen - State Board of Health

VOTE: Senator Jensen, Byars, Cunningham, Johnson, Stuthman, and Howard. Nay: None. Absent: Senator Erdman.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Joellen McGinn - Foster Care Review Board

VOTE: Senator Jensen, Byars, Cunningham, Johnson, Stuthman, and Howard. Nay: None. Absent: Senator Erdman.

(Signed) Jim Jensen, Chairperson

### **ATTORNEY GENERAL'S OPINION**

#### Opinion 05009

DATE: May 18, 2005

SUBJECT: Whether the Additional State Lottery Fund Distributions to the Compulsive Gamblers Assistance Fund Proposed in LB 332, or as Amended by Pending AM0795 or AM1338, Contravene the Distribution Scheme Established in Neb. Const. art. III, § 24.

REQUESTED BY: Senators Vickie D. McDonald and Ray Janssen  
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General  
L. Jay Bartel, Assistant Attorney General

You have each requested our opinion concerning whether LB 332, as originally introduced or as amended by pending AM0795 or AM1338, violates Neb. Const. art. III, § 24. The specific question raised is whether the additional State Lottery fund distributions to the Compulsive Gamblers Assistance Fund proposed under the bill or these amendments are contrary to the distribution scheme established in Neb. Const. art. III, § 24, by the recent passage of Amendment 4. For the reasons set forth below, we

conclude that the additional distributions proposed are unconstitutional because they are inconsistent with the specific distribution mechanism established in the Constitution.

### 1. LB 332 and Its Pending Amendments.

LB 332 as introduced proposes to create the Office of Problem Gambling Services within the Department of Health and Human Services Division of Behavioral Health Services. The bill's Statement of Intent states the Office would "be funded through the Compulsive Gamblers Assistance Fund which includes revenue transferred from the State Lottery Operation Trust Fund, the Charitable Gaming Operations Fund, fees or reimbursements and any unclaimed prize funds in the State Lottery Operation Trust Fund. . . ." LB 332, Statement of Intent at 1. Section 2 of LB 332 provides for transfer to the Compulsive Gamblers Assistance Fund of "any unclaimed prize funds in the State Lottery Operation Trust Fund. . . ." The original bill would be replaced by the pending Committee amendment (AM0795). AM0795 does not propose creation of a new Office of Problem Gambling Services, but amends Neb. Rev. Stat. § 9-812 (Cum. Supp. 2004) to require the State Treasurer in each fiscal year to transfer \$500,000 of unclaimed State lottery prize money to the Compulsive Gamblers Assistance Fund. Another pending amendment (AM1338) would delete the language providing for distribution from unclaimed prize funds and add language requiring the State Treasurer to transfer \$500,000 each fiscal year from the State Lottery Operation Cash Fund to the Compulsive Gamblers Assistance Fund. AM1338 further provides that "[t]his transfer shall take place before any other expenditures are made from the fund in any fiscal year, shall be taken from the advertising, promotion, and marketing budget of the state lottery, and shall be absorbed within the operating budget of the state lottery without increased appropriations to such fund by the legislature." The transfer of State Lottery funds in § 2 of LB 332 and in AM0795 and AM1338 is in addition to the initial \$500,000 transfer to the Compulsive Gamblers Assistance Fund currently required by § 9-812. Section 9-812 also provides that "[o]ne percent of money remaining after payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Compulsive Gamblers Assistance Fund. . . ." Neb. Rev. Stat. § 9-812(1) (Cum. Supp. 2004).

### II. Neb. Const. art. III, § 24, as amended by LR 209CA

In November 2004, the electorate approved an amendment to Neb. Const. art. III, § 24 (LR 209CA) which altered the language in the Constitution relating to the distribution of State Lottery proceeds. The Committee Statement to LR 209CA stated:

LR 209CA adds language to the Nebraska Constitution specifically setting out how the proceeds from the state lottery shall be used. The constitution currently leaves those decisions to the Legislature. It does not change the language allowing for a portion of the proceeds to go to

the costs of establishing and maintaining the lottery, but rather directs the Legislature how to allocate the remaining proceeds after the payment of prizes and operating expenses.

Committee Statement on LR 209CA, 98th Leg., 2nd Sess., at 1-2 (February 2, 2004) (emphasis added).

The ballot language for the proposed constitutional amendment, presented as Amendment 4, advised:

A vote FOR this proposal would provide a conditional guarantee of 10 percent of state lottery proceeds to the Nebraska State Fair Board for operations of the Nebraska State Fair and specify the distribution of the remaining proceeds. Currently, the distribution is made by the Legislature. Under this proposal, after payment of prizes and operating expenses and \$500,000 to the Compulsive Gamblers Assistance Fund, the remaining state lottery proceeds would be distributed as follows: (1) 44 1/2% to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act, (2) 44 1/2% to be used for education as the Legislature may direct, (3) 10% to the Nebraska State Fair Board if the most populous city within the county in which the fair is located provides matching funds equivalent to 10 percent of the amount available for transfer to the board, but if the fair ceases operations, this share would be transferred to the state General Fund, and (4) 1% to the Compulsive Gamblers Assistance Fund.

A vote AGAINST this proposal will retain the Legislature's authority to distribute state lottery proceeds.

The amendment was approved by the voters, and amended subsection (3)(a) of art. III, § 24, now provides:

The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for the following purposes, as directed by the Legislature:

(i) The first five hundred thousand dollars after the payment of prizes and operating expenses shall be transferred to the Compulsive Gamblers Assistance Fund;

(ii) Forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act;

(iii) Forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the

Compulsive Gamblers Assistance Fund shall be used for education as the Legislature may direct;

(iv) Ten percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska State Fair Board if the most populous city within the county in which the fair is located provides matching funds equivalent to 10 percent of the funds available for transfer. Such matching funds may be obtained from the city and any other private or public entity, except that no portion of such matching funds shall be provided by the state. If the Nebraska State Fair ceases operations, 10 percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the General Fund; and

(v) One percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Compulsive Gamblers Assistance Fund.

III. Do the Additional State Lottery Fund Distributions to the Compulsive Gamblers Assistance Fund Proposed in LB 332, or as amended by Pending AM0795 or AM1338, Contravene the Distribution Scheme Established in Article III, § 24?

The question presented is whether the additional State Lottery fund distributions to the Compulsive Gamblers Assistance Fund proposed under LB 332, or as amended by pending AM0795 or AM1338, are contrary to the distribution scheme established in art. III, § 24, by the passage of Amendment 4. Art. III, § 24, as amended, provides that the proceeds of the State Lottery "shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for the following purposes, as directed by the Legislature. . . ." Art. III, § 24(3)(a). The specific purposes are then set forth in subdivisions (i) through (v) of subsection (3)(a), which expressly provide for the use of lottery proceeds after payment of prizes and operating expenses as follows: (1) Transfer of the first \$500,000 to the Compulsive Gamblers Assistance Fund; (2) Transfer of the remaining 44½ % to the Nebraska Environmental Trust Fund; (3) Transfer of the remaining 44½ % to be used for education; (4) Transfer of the remaining 10% to the Nebraska State Fair Board, if certain conditions are met; and (5) Transfer of the remaining 1% to the Compulsive Gamblers Assistance Fund.<sup>1</sup>

In construing the meaning of art. III, § 24, as amended, certain rules of interpretation must be considered. "Constitutional provisions, like statutes, are not open to construction as a matter of course; construction is appropriate only when it has been demonstrated that the meaning of the provision is not clear and therefore that construction is necessary." *Pig Pro Nonstock Cooperative v. Moore*, 253 Neb. 72, 81, 568 N.W.2d 217, 223

(1997). "Courts must apply and enforce the Constitution as it is written." *State ex rel. Spire v. Public Employees Retirement Bd.*, 226 Neb. 176, 178, 410 N.W.2d 463, 465 (1987). "In construing a constitutional amendment to ascertain the intent of the people adopting it, courts must find such intent in the language of the amendment itself and must not hold that the people intended anything different than the language employed imports." *Sorenson v. Swanson*, 181 Neb. 205, 212-13, 147 N.W.2d 620, 625 (1967). "In determining the meaning of a constitutional provision, [a court] must look to the plain and clear language contained therein." *Banner County v. State Bd. of Equal.*, 226 Neb. 236, 252, 411 N.W.2d 35, 45 (1987).

Applying these principles, the additional distribution of State Lottery proceeds to the Compulsive Gamblers Assistance Fund in LB 332, or as amended under proposed AM0795 or AM1338, is contrary to the distribution scheme mandated by art. III, §24. The constitutional provision requires that lottery proceeds "be appropriated by the Legislature for the costs of establishing and maintaining the lottery" and for various enumerated purposes set forth in subdivisions (i) to (v) of art. III, § 24(3)(a). The purposes specify that, after payment of prizes and operating expenses, the first \$500,000 is transferred to the Compulsive Gamblers Assistance Fund, and, after that, specified percentages of remaining funds are to be transferred to the Nebraska Environmental Trust Fund (44 ½ %), for education as directed by the Legislature (44 ½ %), to the State Fair Board (10%), and, finally, the remainder goes to the Compulsive Gamblers Assistance Fund (1%). The intent behind enactment of this distribution scheme was to direct with specificity how the Legislature must distribute lottery proceeds. Prior to the adoption of Amendment 4, art. III, § 24, provided "[t]he proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for other purposes as directed by the Legislature." Amendment 4 established a specific distribution formula requiring an initial \$500,000 transfer of lottery proceeds after payment of prizes and operating expenses to the Compulsive Gamblers Assistance Fund, followed by certain percentage transfers of remaining funds for specified purposes, and, finally, a directive that the remaining 1 percent of proceeds be transferred to the Compulsive Gamblers Assistance Fund. The additional distribution of State Lottery funds under LB 332, either in its original form or as amended by AM0795 or AM1338, is inconsistent with this distribution scheme.

LB 332, as originally introduced, provides for transfer to the Compulsive Gamblers Assistance Fund of "any unclaimed prize funds in the State Lottery Operation Trust Fund . . . ." AM0795, which would replace the original bill, proposes to amend § 9-812(5) to require the transfer of \$500,000 from unclaimed prize monies each fiscal year into the Compulsive Gamblers Assistance Fund. These transfers would be in addition to the \$500,000 initial transfer required by art. III, § 24(3)(a)(i), which is already provided for in § 9-812(1), as well as the transfer of 1 percent of remaining monies after payment of prizes and operating expenses to the Compulsive Gamblers Assistance Fund required by art. III, § 24(3)(a)(v) and currently

provided for under § 9-812(1). Unclaimed prize monies are not part of "the payment of prizes or operating expenses", and the transfer of an additional \$500,000 of lottery funds in this manner is inconsistent with the distribution scheme set forth in art. III, § 24. The Constitution as amended establishes a specific distribution scheme which necessarily precludes the transfer of lottery proceeds to the Compulsive Gamblers Assistance Fund beyond the initial \$500,000 transfer and the 1 percent remainder transfer required under subsection (3)(a)(v). LB 332, as originally introduced or as amended by AM0795, provides for such an additional transfer of lottery proceeds to the Compulsive Gamblers Assistance Fund, and thus is contrary to the distribution mechanism established in art. III, § 24(3).

AM 1338 eliminates the transfer from unclaimed prize monies and replaces it with a \$500,000 transfer each fiscal year from the State Lottery Operation Cash Fund to the Compulsive Gamblers Assistance Fund. This transfer would also be in addition to the initial \$500,000 transfer required by art. III, § 24(3)(a)(i) and currently provided for under § 9-812(1), and the 1 percent "remainder" transfer to the Compulsive Gamblers Assistance Fund required by art. III, § 24(3)(a)(v) which is also currently provided for under § 9-812(1). AM1338 further provides that "[t]his transfer shall take place before any other expenditures are made from the fund in any fiscal year, shall be taken from the advertising, promotion, and marketing budget of the state lottery, and shall be absorbed within the operating budget of the state lottery without increased appropriations to such fund by the legislature." AM1338, § 1.

AM1338 is also contrary to art. III, § 24(3). While the intent of the amendment is unclear, it appears to be an attempt to consider these funds part of "operating expenses" which, along with prize payments, are to be accounted for before any of the transfers provided for under subsections (i) to (v) of art. III, § 24(3). "The Legislature's power of definition may not be employed to nullify or circumvent" constitutional provisions, *State ex rel. Spire v. Strawberries, Inc.*, 239 Neb. 1, 8, 473 N.W.2d 428, 434 (1991), and the Legislature may not "circumvent an express provision of the Constitution by doing indirectly what the Constitution prohibits it from doing directly." *Rock County v. Spire*, 235 Neb. 434, 447, 455 N.W.2d 763, 770 (1990). If lottery funds are transferred to the Compulsive Gamblers Assistance Fund, they are not "operating expenses" as that term is used in art. III, § 24(3), as this term obviously relates to expenses incurred in establishing and maintaining the State Lottery. Thus, these funds, if not actually used to operate the lottery, would be proceeds otherwise available for distribution pursuant to the scheme set forth in art. III, § 24(3). Thus, the transfer of an additional \$500,000 of lottery funds in this manner is inconsistent with the distribution scheme set forth in art. III, § 24, which permits only the initial transfer of lottery proceeds to the Compulsive Gamblers Assistance Fund of \$500,000 and the 1 percent remainder transfer required under subsection (3)(a)(v). AM1338, by providing for a transfer of lottery funds in addition to the amounts specified in art. III, § 24(3), is thus contrary to the distribution mechanism established in the Constitution.

#### IV. Conclusion

Based on the foregoing, we conclude that LB 332, either as originally introduced or as amended by pending AM0795 or AM1338, provides for the distribution of State Lottery funds to the Compulsive Gamblers Assistance Fund in a manner which is inconsistent with the specific scheme established in art. III, § 24.

<sup>1</sup>Subsection (3)(a) does state that lottery proceeds shall be used for the purposes specified "as directed by the Legislature...." We interpret this language to mean that the Legislature retains discretion to direct how proceeds are used within the confines of the enumerated purposes, not as authority for the Legislature to direct the use of lottery proceeds for other purposes, or outside the specific amounts and percentages established in art. III, § 24(3)(a)(i) to (v) for the purposes specified.

Very truly yours,

JON BRUNING  
Attorney General

(Signed) L. Jay Bartel  
Assistant Attorney General

pc: Patrick O'Donnell  
Clerk of the Legislature

07-271-21

### RESOLUTIONS

**LEGISLATIVE RESOLUTION 210.** Introduced by Schimek, 27.

**PURPOSE:** The purpose of this resolution is to examine the overall importance of living wills and the role of the state in promoting general preparedness for loss and death in today's society. Issues addressed by this interim study may include, but are not limited to, the following:

(1) The determination or reasonable estimation of what approximate percentage of the state's population has developed living wills and what approximate percentage has not, if possible;

(2) The perceived lack of and overall need for living wills in our communities;

(3) The fiscal impact to individuals, families, communities, and the state in instances when advanced directives or living wills have not been made available; and

(4) The feasibility of creating an electronically filed mechanism that would assure living wills for all through the process of renewing state driver's licenses or other similar procedure.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE

**NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 211.** Introduced by Bourne, 8.

**PURPOSE:** The purpose of this study is to examine Nebraska and federal statutes relating to forfeiture of money and property utilized in the commission of drug crimes and recommend legislative changes to such statutes which would change the current incentives which encourage state law enforcement agencies to utilize federal forfeiture options rather than proceeding under state law. The study shall also examine the constitutional provisions relating to forfeiture in Nebraska and estimate the relative costs of utilizing the state or federal forfeiture process. Lastly, the study shall examine the current use of funds derived from forfeiture actions in Nebraska and recommend possible legislative and or constitutional changes to expand the permissible uses of these funds.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 212.** Introduced by Howard, 9.

**PURPOSE:** The purpose of this study is to examine the public health impact of fetal alcohol spectrum disorders and potential remedies in Nebraska. The study will include, but not be limited to:

(1) Examination of alcohol consumption practices among pregnant women and the impact on their children;

(2) Examination of disproportionate effects of this issue for minority populations, specifically Native American women;

(3) Examination of best practice prevention and intervention models for addressing this issue;

(4) Consideration of the fiscal impact of fetal alcohol spectrum disorders on Nebraska's medicaid system; and

(5) Consideration of the fiscal impact of potential remedies for this public health concern.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 213.** Introduced by Synowiecki, 7.

**PURPOSE:** The purpose of this study is to examine expanding foster care parent participation in child custody determination hearings. The Legislature recognizes the valued role provided by foster care parents in Nebraska and that foster care parents often have a significantly close relationship with their foster child or children. The Legislature further finds that foster care parents are not provided adequate representation in child custody determinations.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 214.** Introduced by Kruse, 13.

**PURPOSE:** To study issues relating to motor vehicle liability insurance and financial responsibility requirements. LB 375 was introduced in 2005 to increase the dollar-amount of such requirements. This study should review whether the requirements should be modified and the probable effects of any modifications.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 215.** Introduced by Business and Labor Committee: Cunningham, 40; Chairperson; Burling, 33; Kremer, 34; Preister, 5; Schimek, 27.

**PURPOSE:** To study whether mold is a serious issue that affects the health and public safety of the citizens of Nebraska and the proposed issues raised in LB 608, introduced in 2005. In determining that mold is a serious issue affecting Nebraska citizens, the study shall determine the most appropriate method and processes for the intervention and the prevention of mold in buildings. This study shall include, but not be limited to, identifying (1) when intervention techniques should be imposed, (2) the individuals that should be designated as responsible for applying intervention and prevention techniques, (3) the training and certification required to carry out the goals of the program, and (4) whether inspection is required and the individuals necessary to carry out the inspection process.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Business and Labor Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 216.** Introduced by Landis, 46.

**PURPOSE:** To determine whether there are legislative actions that could be taken to curb the proliferation of unsolicited bulk electronic mail, commonly known as spam. Recommendations, if any, should be complimentary to the Federal Can-Spam Act.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 217.** Introduced by Wehrbein, 2.

**PURPOSE:** With international growth of population and prosperity, world trade is becoming a larger and more dynamic factor in economic growth, both for America and for Nebraska. Nebraska does business with one hundred eighty countries in everything from beef and grain to athletic equipment, modular homes, computer hardware and software, medical and surgical products, and farm-raised fish. Our exports exceed \$2 billion a year.

Nebraska has more and more international investment in the state, from

Kawasaki to Klaas. Such investment creates jobs and growth for Nebraska.

Beginning in 1990, Nebraska Governors have regularly gone on trade missions abroad, especially to the Pacific Rim, to increase sales of Nebraska products, both agricultural and industrial. Governor Johanns went on eight trade missions as governor.

The World Trade Organization now includes many of Nebraska's trade partners, such as Canada, Mexico, Japan, South Korea, China, Indonesia, and Malaysia, among others. The North American Free Trade Association is continuing to have an impact on Nebraska farm products from cattle to sugar. Nebraska is the United States' top exporter of livestock and the number two exporter of feed and feed grain. Many new foreign trade issues are arising that directly impact Nebraska from Bovine Spongiform Encephalopathy disease scares in Japan, Mexico, and Taiwan, and other Pacific Rim countries to GMO issues blocking additional sales of Nebraska corn to the European Union as a growing free trade market.

Nebraska state government is working hard to help develop international ties and opportunities through the Department of Agriculture, Department of Economic Development, and Secretary of State's Office. In addition, the University of Nebraska has an International Relations, International Studies, or International Health Systems Office at each of its four campuses; some 3600 foreign students add approximately \$70 million each year to Nebraska's economy.

The UNL Japanese Agricultural Training Program has been training Japanese agricultural students for some thirty years, and has sustained close ties with those students as their careers develop in Japan.

Nebraska's Secretary of State has authority to be a goodwill Ambassador as Chief Protocol Officer. He regularly meets foreign guests, and has traveled to Taiwan, Bosnia, and Austria to represent the State of Nebraska.

The United States Department of State finances and sends some three hundred foreign dignitaries to Nebraska each year to become acquainted with Nebraska citizens and to learn about our unicameral and our agricultural production methods.

The United States Department of State is also actively looking at Nebraska for other international programs, from Fulbright Scholar Orientation Programs, to possible nontraditional programs for Muslim women from the Middle East.

Another significant program is the State Partnership Plan developed by the National Guard Bureau in Washington, D. C. Each participating state national guard adopts an emerging democratic country, focused right now mostly in eastern Europe, and works with their military counterparts in that country to help them develop the training, command, and infrastructure system to be compatible with civilian democratic leadership in those countries. Right now the Nebraska National Guard has adopted the Czech Republic in central Europe.

In light of the multitude of state programs and state initiatives to develop effective and long-term relationships overseas and to enhance efforts of Nebraska exporters to reach new and larger markets overseas, as well as to connect the potential gains arising from the benefits of cultural and educational engagement with citizens and leaders from overseas, a study

shall be done on the impact of these and other international affairs on Nebraska's economy. The following subjects shall be considered during the study:

(1) An assessment of whether these state-sponsored programs should be subject to a higher level of coordination through an appropriate oversight committee of the Legislature;

(2) Consideration of the various programs and initiatives already in place. This would help avoid duplication of efforts and could be used to better coordinate Nebraska's efforts in the future; and

(3) Consideration of the inclusion of other entities, both public and private, into participation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That a committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 218.** Introduced by Redfield, 12.

PURPOSE: The purpose of this study is to determine direct and indirect costs of establishing and maintaining higher education programs for foreign students by distance learning and programs located in foreign countries, as well as tuition subsidies for foreign students attending Nebraska public institutions of higher education.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 219.** Introduced by Bourne, 8.

PURPOSE: To examine Nebraska law regarding providing notice to the public as to the identity and whereabouts of registered sex offenders and the obligations and restrictions placed upon such offenders to protect the public.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report

of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 220.** Introduced by Bourne, 8.

**PURPOSE:** To examine existing statutory and regulatory provisions of law regarding the training of individuals seeking to obtain a law enforcement certificate at the Law Enforcement Training Center and the mechanisms currently in place to fund such training. The study shall identify and research the feasibility of possible alternative methods of funding these programs, including requiring trainees or their employers to pay for such training.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 221.** Introduced by Bourne, 8.

**PURPOSE:** To examine the programs and resources currently being utilized to provide substance abuse treatment services to individuals abusing methamphetamine in Nebraska, including individuals within the criminal justice system. The study shall:

(1) Examine the current unmet need for methamphetamine treatment services throughout the state;

(2) Examine the cost and effectiveness of various methamphetamine treatment approaches;

(3) Estimate the costs involved in expanding treatment availability statewide; and

(4) Recommend possible legislative solutions to address the issue of making affordable methamphetamine treatment available to individuals in need throughout Nebraska.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 222.** Introduced by Bourne, 8.

**PURPOSE:** To examine the current programs in place for providing palliative treatment and end-of-life care to terminally ill individuals incarcerated within institutions under the control of the Department of Correctional Services. The study shall examine treatment options within the institutions operated by the department as well as alternatives involving the parole, conditional release, or transfer of terminally ill inmates to a health care or hospice facility not under the control of the department. Approaches taken by other states in this area shall be reviewed, and the study shall recommend possible legislative actions to expand and improve the options currently available for caring for terminally ill inmates.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**VISITORS**

Visitors to the Chamber were 56 fifth-, sixth-, and seventh-grade students and teachers from St. Stanislaus School, Omaha; 34 fourth-grade students and teachers from Gates Elementary School, Grand Island; Senator Cunningham's mother and sister, Elda Cunningham and Terri Suhr from Wausa; Chris Eckhart and Omer Troester from Fremont; 40 fourth-grade students and teachers from Rockbrook Elementary School, Omaha; 6 third-, fourth-, and tenth-grade students and teachers from Christ Family Church School, Omaha; and 76 fourth-grade students and teachers from Spring Ridge Elementary School, Elkhorn.

**RECESS**

At 12:10 p.m., on a motion by Senator Price, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senator Dw. Pedersen who was excused; and Senators Brown, Byars, Combs, Cornett, Cunningham, Engel, Erdman, Loudon, D. Pederson, Price, and Thompson who were excused until they arrive.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 18, 2005, at 12:15 p.m. were the following: LBs 737e, 421e, 422e, 423e, 424e, 425e, 426e, and 427e.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**GENERAL FILE**

**LEGISLATIVE BILL 500.** Senator Chambers offered the following motion:  
Reconsider the vote to bracket LB 500.

Senator Brown moved the previous question. The question is, "Shall the debate now close?" The motion failed with 18 ayes, 1 nay, and 30 not voting.

Senator Landis moved the previous question. The question is, "Shall the debate now close?"

Senator Landis moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

The motion to cease debate prevailed with 25 ayes, 2 nays, and 22 not voting.

Senator Chambers requested a roll call vote on his motion to reconsider.

Voting in the affirmative, 9:

Bourne	Janssen	Raikes	Stuhr	Synowiecki
Chambers	Louden	Schimek	Stuthman	

Voting in the negative, 27:

Baker	Cornett	Howard	Langemeier	Smith
Beutler	Engel	Johnson	McDonald	Thompson
Brashear	Erdman	Kopplin	Mines	Wehrbein
Brown	Flood	Kremer	Pahls	
Byars	Foley	Kruse	Pederson, D.	
Connealy	Friend	Landis	Schrock	

Present and not voting, 11:

Aguilar	Cudaback	Hudkins	Price
Burling	Fischer	Jensen	Redfield
Combs	Heidemann	Preister	

Excused and not voting, 2:

Cunningham Pedersen, Dw.

The Chambers motion to reconsider failed with 9 ayes, 27 nays, 11 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:

Recommit to the Revenue Committee.

Senator Landis raised a point of order on whether a second motion to recommit to committee can be made at the same stage of consideration, but on different days.

The Chair sustained the Landis point of order and ruled that only one motion to recommit is permitted at the same stage of debate, pursuant to Rule 7, Section 7.

The Standing Committee amendment, AM0773, found on page 886 and considered on page 1454, was renewed.

Senators Landis and Howard renewed their pending amendment, AM1529, found on page 1470, to the Standing Committee amendment.

Senator Chambers requested a division of the question on the Landis-Howard amendment.

The Chair sustained the division of the question.

The first Landis-Howard amendment, to the Standing Committee, is as follows:

FA272

(Amendments to Standing Committee amendments, AM0773)

- 1 1. On page 2, line 21, before the period insert "; and
- 2 in line 26 after 'facilities' insert 'that are provided free to the
- 3 public'; and in line 27 after the semicolon insert "in line 4
- 4 after 'project' insert '. Development project costs does not
- 5 include property taxes incurred by a company that locates within a
- 6 development project area, any type of lobbying expense, or the
- 7 development, construction, or operation of any type of parking
- 8 facility that requires the public to pay a fee;"

Senator Brashear asked unanimous consent to bracket LB 500 until May 23, 2005. No objections. So ordered.

**SELECT COMMITTEE REPORT**  
**Enrollment and Review**

**LEGISLATIVE BILL 312A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 223.** Introduced by D. Pederson, 42.

WHEREAS, pursuant to the provisions of section 85-1415, the Board of Regents of the University of Nebraska has submitted to the Coordinating Commission for Postsecondary Education plans for the renovation of the existing Harper-Schramm-Smith Dining Services facility located within the Harper-Schramm-Smith Residential Complex at the University of Nebraska-Lincoln. The project will include reconfiguration of the serving area to better meet student needs; improvement of the building heating, ventilation, and air conditioning systems; improvement of the building exiting and accessibility; renovation of the multipurpose meeting and conference rooms and office spaces; and installation of an elevator. The project cost is estimated at \$6,525,000 to be funded from revenue bond surplus funds; and

WHEREAS, upon its review of the plans, the Coordinating Commission for Postsecondary Education has recommended approval by the Legislature of the University of Nebraska-Lincoln project; and

WHEREAS, pursuant to the provisions of section 85-1415, the Board of Trustees of the Nebraska State Colleges has submitted to the Coordinating Commission for Postsecondary Education plans for a multi-year parking lot improvement project at Wayne State College. The project cost is estimated at \$1,140,926 to be funded from revenue bond surplus funds; and

WHEREAS, upon its review of the plans, the Coordinating Commission for Postsecondary Education has recommended approval by the Legislature of the Wayne State College Project.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That pursuant to section 85-408, the Legislature approves the plans for the renovation of the existing Harper-Schramm-Smith Dining Services facility located within the Harper-Schramm-Smith Residential Complex at the University of Nebraska-Lincoln at an estimated cost of \$6,525,000 to be funded from the revenue bond surplus funds.

2. That pursuant to section 85-408, the Legislature approves the plans for the multi-year parking lot improvement project at Wayne State College at an estimated cost of \$1,140,926 to be funded from revenue bond surplus funds.

Laid over.

**NOTICE OF COMMITTEE HEARING**  
**Government, Military and Veterans Affairs**  
Room 1507

Wednesday, May 25, 2005

8:30 a.m.

Mike Behm - Nebraska Commission on Law Enforcement and Criminal Justice

Bryan Tuma - Nebraska State Patrol

(Signed) DiAnna R. Schimek, Chairperson

**AMENDMENT - Print in Journal**

Senator Smith filed the following amendment to LR 12CA:  
AM1649

- 1 1. Insert the following new section:
- 2 "Sec. 2. At the general election in November 2006 the
- 3 following proposed amendment to the Constitution of Nebraska shall
- 4 be submitted to the electors of the State of Nebraska for approval
- 5 or rejection:
- 6 To amend Article III, section 7:
- 7 III-7 At the general election to be held in November
- 8 1964, one-half the members of the Legislature, or as nearly thereto
- 9 as may be practicable, shall be elected for a term of four years
- 10 and the remainder for a term of two years, and thereafter all
- 11 members shall be elected for a term of four years, with the manner
- 12 of such election to be determined by the Legislature. When the
- 13 Legislature is redistricted, the members elected prior to the
- 14 redistricting shall continue in office, and the law providing for
- 15 such redistricting shall where necessary specify the newly
- 16 established district which they shall represent for the balance of
- 17 their term. Each member shall be nominated and elected in a
- 18 nonpartisan manner and without any indication on the ballot that he
- 19 or she is affiliated with or endorsed by any political party or
- 20 organization. Each member of the Legislature shall receive a
- 21 salary of not to exceed one thousand dollars per month during the
- 22 term of his or her office. In addition to his or her salary, each
- 23 member shall receive an amount equal to his or her actual expenses
- 24 in traveling by the most usual route once to and returning from
- 1 each regular or special session of the Legislature. Members of the
- 2 Legislature ~~shall receive no pay nor perquisites other than his or~~
- 3 ~~her salary and expenses, and employees of the Legislature shall~~
- 4 ~~receive no compensation other than their salary or per diem may~~
- 5 ~~participate in benefit programs with benefits not exceeding the~~
- 6 ~~state employee benefit programs."~~
- 7 2. On page 2, lines 5 through 7, strike the new matter
- 8 and reinstate the stricken matter; in line 7 after "office" insert
- 9 "until adjusted by the Legislature, which salary shall not exceed
- 10 the federal poverty level for a family of four"; strike beginning

11 with "change" in line 18 through line 20 and insert "authorize the  
12 Legislature to adjust the salary of members of the Legislature, not  
13 to exceed the federal poverty level for a family of four."; and  
14 after line 22 insert:  
15 "A constitutional amendment to allow the members of the  
16 Legislature to participate in benefit programs with  
17 benefits not exceeding the state employee benefit  
18 programs.  
19 For  
20 Against."  
21 3. Renumber the remaining section accordingly.

### **GENERAL FILE**

**LEGISLATIVE BILL 478.** Title read. Considered.

The Standing Committee amendment, AM0863, found on page 975, was considered.

**SENATOR JANSSEN PRESIDING**

**SENATOR SCHIMEK PRESIDING**

**SENATOR CUDABACK PRESIDING**

Senator Mines moved the previous question. The question is, "Shall the debate now close?"

Senator Mines moved for a call of the house. The motion prevailed with 15 ayes, 1 nay, and 33 not voting.

The motion to cease debate prevailed with 25 ayes, 2 nays, and 22 not voting.

The Standing Committee amendment was adopted with 35 ayes, 6 nays, 5 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

### **MOTION - Print in Journal**

Senator Landis filed the following motion to LB 48:

Suspend Rule 6, Section 3 and Rule 7, Sections 3 and 7 and vote on the advancement of LB 48 without further amendment, motion or debate.

**AMENDMENT - Print in Journal**

Senator Landis filed the following amendment to LB 48:  
AM1636

(Amendments to Standing Committee amendments, AM0662)

- 1 1. Insert the following new sections:
- 2 "Sec. 5. Section 66-1840, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 66-1840. (1) Whenever, in order to carry out the duties
- 5 imposed upon it by law, the commission, in a proceeding upon its
- 6 own motion, on complaint, or upon an application to it, including
- 7 rate filings, deems it necessary to investigate any jurisdictional
- 8 utility or make appraisals of the property of any jurisdictional
- 9 utility, such utility, in case the expenses reasonably attributable
- 10 to such investigation or appraisal exceed the sum of one hundred
- 11 dollars, including both direct and indirect expenses incurred by
- 12 the commission or its staff, shall pay such expenses which shall be
- 13 assessed against such utility by the commission. Such expenses
- 14 shall be assessed beginning on the date that the proceeding is
- 15 filed or beginning three business days after the commission gives
- 16 the utility notice of the assessment by United States mail,
- 17 whichever is later. The commission shall give such utility notice
- 18 and opportunity for a hearing in accordance with rules and
- 19 regulations adopted and promulgated pursuant to section 75-110. At
- 20 such hearing, the utility may be heard as to the necessity of such
- 21 investigation or appraisal and may show cause, if any, why such
- 22 investigation or appraisal should not be made or why the costs
- 23 thereof should not be assessed against such utility. The finding
- 1 of the commission as to the necessity of the investigation or
- 2 appraisal and the assessment of the expenses thereof shall be
- 3 conclusive, except that no such utility shall be liable for payment
- 4 of any such expenses incurred by the commission in connection with
- 5 any proceeding before or within the jurisdiction of any federal
- 6 regulatory body.
- 7 (2) The commission shall ascertain the expenses of any
- 8 such investigation or appraisal and by order assess such expenses
- 9 against the jurisdictional utility investigated or whose property
- 10 is appraised in such proceeding and shall render a bill therefor,
- 11 by United States mail, to the natural gas public jurisdictional
- 12 utility, either at the conclusion of the investigation or appraisal
- 13 or from time to time during such investigation or appraisal. Such
- 14 bill shall constitute notice of such assessment and demand of
- 15 payment thereof. Upon a bill rendered to such utility, within
- 16 fifteen days after the mailing thereof, such utility shall pay to
- 17 the commission the amount of the assessment for which it is billed.
- 18 Such payment when made shall be remitted by the commission to the
- 19 State Treasurer for credit to the Public Service Commission
- 20 Regulation Fund for the use of the commission. The total amount,
- 21 in any one fiscal year, for which any utility shall be assessed

22 under this section shall not exceed the following: (a) For a  
23 jurisdictional utility that has not filed an annual report with the  
24 commission as provided in the State Natural Gas Regulation Act  
25 prior to the beginning of the commission's fiscal year, actual  
26 expenses, including direct and indirect expenses, incurred by the  
27 commission; and (b) for any other jurisdictional utility,

1 ~~six tenths~~ of one percent of the utility's gross operating  
2 jurisdictional revenue less gas cost derived from intrastate  
3 natural gas utility business as reflected in the last annual report  
4 filed with the commission pursuant to the act prior to the  
5 beginning of the commission's fiscal year. The commission may  
6 render bills in one fiscal year for costs incurred within a  
7 previous fiscal year.

8 (3) The commission, in accordance with the procedures  
9 prescribed by subsection (2) of this section, may assess against an  
10 entity, other than an individual residential ratepayer or  
11 individual agricultural ratepayer, that is not subject to  
12 assessment pursuant to subsection (1) of this section actual  
13 expenses of any services extended, filings processed, or actions  
14 certified by the commission for the entity.

15 Sec. 6. Section 66-1841, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 66-1841. (1) The commission shall determine, within  
18 ~~fifteen~~ thirty days after each quarter-year for each such  
19 quarter-year, the total amount of its expenditures during such  
20 period of time. The total amount shall include the salaries of  
21 members and employees and all other lawful expenditures of the  
22 commission, including all expenditures in connection with  
23 investigations or appraisals made under the State Natural Gas  
24 Regulation Act, except that there shall not be included in such  
25 total amount of expenditures for the purpose of this section the  
26 expenditures during such period of time which are otherwise  
27 provided for by fees and assessments pursuant to the act.

1 (2) From the amount determined under subsection (1) of  
2 this section, the commission shall deduct (a) all amounts collected  
3 under section 66-1840 during such period of time and (b) all other  
4 funds collected with regard to jurisdictional utilities.

5 (3) To the remainder, after making the deductions under  
6 subsection (2) of this section, the commission shall add such  
7 amount as in its judgment may be required to satisfy any deficiency  
8 in the prior assessment period's assessment and to provide for  
9 anticipated increases in necessary expenditures for the current  
10 assessment period.

11 (4) The amount determined under subsections (1) through  
12 (3) of this section shall be assessed by the commission against all  
13 jurisdictional utilities and shall not exceed, during any fiscal  
14 year, the greater of one hundred dollars or each utility's  
15 proportionate share of the total amount determined under this  
16 section based upon meters served by each utility as a proportion of

17 all meters of jurisdictional utilities. Such assessment shall be  
18 paid to the commission within fifteen days after the notice of  
19 assessment has been mailed to such utilities, which notice of  
20 assessment shall constitute demand of payment thereof.

21 (5) The commission shall remit all money received by or  
22 for it for the assessment imposed under this section to the State  
23 Treasurer for credit to the Public Service Commission Regulation  
24 Fund.

25 (6) The commission shall not, pursuant to this section,  
26 assess a total of more than two hundred fifty thousand dollars in a  
27 fiscal year, exclusive of uncollectible fees and assessments  
1 charged or assessed pursuant to this section. This subsection  
2 terminates on June 30, 2005.

3 (7)(a) Until June 1, 2007, a jurisdictional utility may  
4 recover the amount of any assessments or charges paid to the  
5 commission pursuant to this section and section 66-1840 through a  
6 special surcharge on ratepayers which may be billed on the monthly  
7 statements for up to a twelve-month period immediately following  
8 their payment by the jurisdictional utility. The surcharge shall  
9 be shown on the statements as a charge for state regulatory  
10 assessments. The commission shall permit the utility to include in  
11 such surcharge interest upon the amount of the charges and  
12 assessments paid to the commission prior to their recovery from  
13 ratepayers. Such interest shall be at a rate not to exceed the  
14 rate established by section 45-103.

15 (b) On and after June 1, 2007, the commission by general  
16 rule and regulation shall authorize the recovery of the amount of  
17 any assessments or charges paid to the commission pursuant to this  
18 section and section 66-1840 in a general rate filing or through a  
19 special surcharge which may be billed on the monthly statements for  
20 up to a twelve-month period immediately following their payment by  
21 the jurisdictional utility.

22 Sec. 18. Sections 5, 6, 18, and 22 of this act become  
23 operative immediately upon the adjournment of this legislative  
24 session. The other sections of this act become operative three  
25 calendar months after the adjournment of this legislative session.

26 Sec. 20. Original sections 66-1840 and 66-1841, Reissue  
27 Revised Statutes of Nebraska, are repealed.

1 Sec. 22. Since an emergency exists, this act takes  
2 effect when passed and approved according to law."

3 2. On page 2, lines 20 and 21; and page 4, line 9,  
4 strike "7 to 14" and insert "9 to 16".

5 3. On page 5, line 27, strike "10 and 11" and insert "12  
6 and 13".

7 4. On page 8, line 18; and page 10, line 19, strike "9"  
8 and insert "11".

9 5. Renumber the remaining sections accordingly.

**MOTION - Print in Journal**

Senator Bourne filed the following motion to LB 48:  
Recommit LB 48 to committee.

**AMENDMENTS - Print in Journal**

Senator Friend filed the following amendment to LB 48:  
AM1616

(Amendments to AM1498)

- 1 1. Strike sections 2, 7, 9 to 15, and 23.
- 2 2. On page 2, lines 24 and 25, strike "9 to 23" and
- 3 insert "7 to 13".
- 4 3. On page 18, lines 11 and 18; page 21, lines 16 and
- 5 17; and page 22, line 7, strike "16 to 22" and insert "7 to 13".
- 6 4. On page 19, line 19, strike "18" and insert "9".
- 7 5. On page 21, line 12, strike "18 and 19" and insert "9
- 8 and 10".
- 9 6. On page 24, line 10, strike "5, 6, 25, 27, and 28"
- 10 and insert "4, 5, 15, 17, and 18"; in line 14 strike "14-2125,";
- 11 and in line 15 strike "66-1848,".
- 12 7. Renumber the remaining sections accordingly.

Senator Friend filed the following amendment to LB 48:  
AM1617

(Amendments to AM1498)

- 1 1. On page 2, strike beginning with "on" in line 19
- 2 through line 21 and insert "if such end user is a political
- 3 subdivision of the state.".

Senator Friend filed the following amendment to LB 48:  
AM1618

(Amendments to AM1498)

- 1 1. Insert the following new section:
- 2 "Sec. 2. Section 14-2116, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 14-2116. (1) In addition to any other rights and powers
- 5 conferred upon metropolitan utilities districts under sections
- 6 14-2101 to 14-2157, such districts shall have and may exercise the
- 7 power of eminent domain for the purpose of erecting, constructing,
- 8 locating, maintaining, or supplying such waterworks, gas works, or
- 9 mains or the extension of any system of waterworks, water supply,
- 10 gas works, or gas supply, and any such district may go beyond its
- 11 territorial limits and may take, hold, or acquire rights, property,
- 12 and real estate, or either or any of the same, by purchase or
- 13 otherwise. Such a district may for such purposes take, hold, and
- 14 condemn any and all necessary property.
- 15 (2) Any metropolitan utilities district shall have the

- 16 power to condemn or to exercise the power of eminent domain to  
 17 acquire parts of an existing utility's facilities only when such  
 18 facilities are (a) within, annexed to, or otherwise consolidated  
 19 within the corporate boundary limits of a city of the metropolitan  
 20 class or (b) located within territories brought into the formal  
 21 boundaries of the district when the metropolitan utilities district  
 22 is extended to include sanitary and improvement districts,  
 23 unincorporated areas, towns, villages, or territory lying outside  
 1 the corporate limits of a city of the metropolitan class and so  
 2 extended as to include sanitary and improvement districts,  
 3 unincorporated areas, towns, or villages in an adjoining county or  
 4 counties, when such sanitary and improvement districts,  
 5 unincorporated areas, towns, or villages have a right to  
 6 participate in the nomination and in the election of members of the  
 7 board of directors of the metropolitan utilities district. The  
 8 procedure to condemn property shall be exercised in the manner set  
 9 forth in sections 76-704 to 76-724. Within a municipal county, the  
 10 power to condemn or to exercise the power of eminent domain for  
 11 purposes of this subsection may be exercised by a metropolitan  
 12 utilities district to the extent and in the manner provided by the  
 13 Legislature as required by section 13-2802."
- 14 2. On page 2, lines 24 and 25, strike "9 to 23" and  
 15 insert "10 to 24".
- 16 3. On page 10, line 24, strike "12 or 20" and insert "13  
 17 or 21"; and in line 27 strike "12 and 13" and insert "13 and 14".
- 18 4. On page 11, line 19, strike "17 to 22" and insert "18  
 19 to 23".
- 20 5. On page 13, line 5, strike "11" and insert "12"; and  
 21 in line 10 strike "16 to 22" and insert "17 to 23".
- 22 6. On page 15, line 7, strike "20" and insert "21"; and  
 23 in line 9 strike "11" and insert "12".
- 24 7. On page 16, line 19, strike "13" and insert "14".
- 25 8. On page 18, lines 11 and 18; page 21, lines 16 and  
 26 17; and page 22, line 7, strike "16 to 22" and insert "17 to 23".
- 27 9. On page 19, line 19, strike "18" and insert "19".
- 1 10. On page 21, line 12, strike "18 and 19" and insert  
 2 "19 and 20".
- 3 11. On page 22, line 15, strike "11" and insert "12".
- 4 12. On page 24, line 10, strike "5, 6, 25, 27, and 28"  
 5 and insert "6, 7, 26, 28, and 29"; and in line 16 strike "section"  
 6 and insert "sections" and before the last comma insert "and  
 7 14-2116".
- 8 13. Renumber the remaining sections accordingly.

Senator Stuthman filed the following amendment to LB 500:  
 AM1563

(Amendments to Standing Committee amendments, AM0773)

- 1 1. On page 3, strike beginning with "Selling" in line 12  
 2 through "providing" in line 13 and insert "Providing"; and strike

3 beginning with "if" in line 19 through "project" in line 23.

Senator Fischer filed the following amendment to LB 150:  
AM1642

- 1 1. Insert the following new sections:
- 2 "Sec. 16. The Department of Agriculture may, within the
- 3 framework and consistent with standards of the National Animal
- 4 Identification System, cooperate and coordinate with the Animal and
- 5 Plant Health Inspection Service of the United States Department of
- 6 Agriculture and other local, state, and national agencies and
- 7 organizations, public or private, to define premises where
- 8 livestock are located, to develop a premises registration system
- 9 for Nebraska, and to implement other state components of a national
- 10 uniform system of animal identification.
- 11 Sec. 17. (1) Any information that a person provides to
- 12 the Department of Agriculture for purposes of premises registration
- 13 or otherwise for voluntary participation in or compliance with a
- 14 uniform system of animal identification shall not be subject to
- 15 public inspection pursuant to sections 84-712 to 84-712.09. The
- 16 department and its employees or agents shall not disclose such
- 17 information to any other person or agency except when such
- 18 disclosure:
- 19 (a) Is authorized by the person who provides the
- 20 information; or
- 21 (b) Is necessary for purposes of disease surveillance or
- 22 to carry out epidemiological investigations related to incidences
- 23 of animal disease.
- 24 (2) The department may disclose information as authorized
- 1 by this section subject to any confidentiality requirements that
- 2 the department determines are appropriate under the circumstances.
- 3 (3) Any person who violates this section shall be subject
- 4 to prosecution and penalty for official misconduct pursuant to
- 5 section 28-924.
- 6 (4) Nothing in this section shall be construed to
- 7 prohibit the department from discussing, reporting, or otherwise
- 8 disclosing the progress or results of disease surveillance
- 9 activities or epidemiological investigation related to incidences
- 10 of animal disease.
- 11 Sec. 18. The Revisor of Statutes shall assign sections
- 12 16 and 17 of this act within sections 54-701 to 54-705."
- 13 2. Renumber the remaining sections accordingly.

## RESOLUTION

### LEGISLATIVE RESOLUTION 224. Introduced by Howard, 9.

WHEREAS, William W. Kratville has contributed significantly to the railroad industry and the preservation of its history through his work as an internationally-recognized consultant, award-winning photographer, author,

and media advisor, having authored or co-authored over twenty books of national, local, and historical interest and made temporary and permanent displays of his artwork available in public locations throughout the Midwest; and

WHEREAS, Mr. Kratville served as a top assistant to four Omaha mayors and has testified before Congress on railroad-related issues; and

WHEREAS, Mr. Kratville was a stringer photographer for United Press International in the 1950s whose most notable assignments included the Missouri River flood in Omaha in 1952 and a trip to Cuba before the Castro Revolution; and

WHEREAS, Mr. Kratville was owner of the South Omaha Terminal, and owned and managed special Cornhusker football trains that provided transportation between Omaha and Lincoln for fans between the 1960s and 1970s; and

WHEREAS, Mr. Kratville was founder and is the current owner of Auto-Liner Corporation, a private company that provides publishing, photography, mechanical, and technical railroad consultation nationally and internationally and through Auto-Liner Corporation, was instrumental in the 1970 start-up of Amtrak and served as advisor and mechanical consultant to their fleet cars; and

WHEREAS, Mr. Kratville is a private railroad car owner and has donated Pullman cars to Durham Western Heritage Museum for permanent display; supplied private cars for Presidential whistlestops and other celebrity and dignitary tours, including Presidents Jimmy Carter, Gerald Ford, George H. W. Bush, Secretary of State Colin Powell, and Presidential candidate George McGovern; and provided cars for entertainment tours including Disney's Mickey Mouse 50th Birthday, Wheel of Fortune, and others; and

WHEREAS, William W. Kratville has demonstrated commitment to the Omaha community throughout the years in many volunteer leadership roles, including serving as a founding and current member of the Omaha press club since the 1950s, a consultant for the design and construction of the original steam locomotive to the Omaha Henry Doorly Zoo in the 1960s, and a founding board member of the Durham Western Heritage Museum in 1971.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Legislature recognizes and honors the achievements of William W. Kratville.

2. That the Clerk of the Legislature send a copy of this resolution to Mr. Kratville.

Laid over.

## GENERAL FILE

**LEGISLATIVE BILL 478.** Considered.

**SPEAKER BRASHEAR PRESIDING**

Senator Chambers offered the following amendment:

FA280

Amend AM0863

In line 10 after "certification", insert "signed by the employer's facility security officer."; and in line 12 beginning with "that" strike language through "officer" in line 13.

## **SENATOR CUDABACK PRESIDING**

The Chambers amendment was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

Senator Cornett moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

Senator Cornett requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 25:

Aguilar	Cornett	Friend	McDonald	Redfield
Brashear	Cudaback	Jensen	Pahls	Schrock
Brown	Cunningham	Johnson	Pederson, D.	Stuhr
Byars	Flood	Kopplin	Price	Stuthman
Connealy	Foley	Landis	Raikes	Thompson

Voting in the negative, 6:

Bourne	Chambers	Hudkins
Burling	Engel	Smith

Present and not voting, 12:

Beutler	Heidemann	Langemeier	Schimek
Erdman	Howard	Louden	Synowiecki
Fischer	Kruse	Mines	Wehrbein

Excused and not voting, 6:

Baker	Janssen	Pedersen, Dw.
Combs	Kremer	Preister

Advanced to E & R for review with 25 ayes, 6 nays, 12 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 713.** Title read. Considered.

The Standing Committee amendment, AM1108, printed separately and

referred to on page 1194, was considered.

Senator Howard withdrew her pending amendment, AM1573, found on page 1499.

Senator Bourne renewed his pending amendment, AM1344, found on page 1569, to the Standing Committee amendment.

The Bourne amendment was adopted with 28 ayes, 0 nays, 15 present and not voting, and 6 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

### AMENDMENTS - Print in Journal

Senator Price filed the following amendment to LB 146:  
AM1628

(Amendments to Standing Committee amendments, AM1235)

- 1 1. On page 1, line 7, after "(1)" insert "Approved
- 2 nursing program means a program offered by a public or private
- 3 postsecondary educational institution in Nebraska (a) which
- 4 consists of courses of instruction in regularly scheduled classes
- 5 leading to a master of science degree, a bachelor of science
- 6 degree, an associate degree, or a diploma in nursing or (b) for the
- 7 preparation for licensure as a licensed practical nurse available
- 8 to regularly enrolled undergraduate or graduate students;
- 9 (2)"; in line 9 strike "(2)" and insert "(3)"; in line 18
- 10 strike the matter beginning with "offered" through "Nebraska" in
- 11 line 19; and in line 23 strike the matter beginning with "offered"
- 12 through "Nebraska" in line 24.
- 13 2. On page 4, line 23, after the period insert "The
- 14 department may adopt rules that require the maximum forgiveness
- 15 amount of fifteen thousand dollars pursuant to subsection (3) of
- 16 section 4 of this act be present in the Nursing Faculty Student
- 17 Loan Cash Fund before each qualified student is chosen.".

Senator McDonald filed the following amendment to LB 332:  
AM1651

(Amendments to Standing Committee amendments, AM0795)

- 1 1. Strike section 1 and insert the following new
- 2 section:
- 3 "Sec. 2. It is the intent of the Legislature to
- 4 appropriate five hundred thousand dollars from the General Fund for
- 5 FY2005-06 and five hundred thousand dollars from the General Fund
- 6 for FY2006-07, for compulsive gamblers assistance programs, which

7 appropriations shall be in addition to any funds appropriated from  
8 the Charitable Gaming Operations Trust Fund or the State Lottery  
9 Operation Trust Fund to the Compulsive Gamblers Assistance Fund for  
10 such fiscal years for such programs."

11 2. Amend the repealer and renumber the remaining  
12 sections accordingly.

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Fischer asked unanimous consent to have her name added as cointroducer to LB 90. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Bobi and Larry Spilker from North Little Rock, Arkansas; 52 fourth-grade students and teacher from North American Martyrs School, Lincoln; and 43 fourth-grade students and teachers from Paddock Lane Elementary School, Beatrice.

### **ADJOURNMENT**

At 7:22 p.m., on a motion by Senator Jensen, the Legislature adjourned until 9:00 a.m., Thursday, May 19, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**EIGHTY-FIRST DAY - MAY 19, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****EIGHTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, May 19, 2005

**PRAYER**

The prayer was offered by Senator Janssen.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Kruse who was excused; and Senators Brown, Cornett, Engel, Landis, Dw. Pedersen, and D. Pederson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eightieth day was approved.

**SELECT FILE**

**LEGISLATIVE BILL 312A.** Advanced to E & R for engrossment.

**GENERAL FILE**

**LEGISLATIVE BILL 348.** Title read. Considered.

The Standing Committee amendment, AM1332, printed separately and referred to on page 1315, was considered.

Senator Bourne renewed his pending amendment, AM1355, found on page 1338, to the Standing Committee amendment.

The Bourne amendment was adopted with 29 ayes, 3 nays, 12 present and not voting, and 5 excused and not voting.

Senator Bourne offered the following amendment to the Standing Committee amendment:

AM1349

(Amendments to Standing Committee amendments, AM1332)

- 1 1. On page 19, line 21, strike "five" and insert "a fee
- 2 established in the manner provided in subsection (3) of section
- 3 81-118.01."; and in line 22 strike "dollars." and show as
- 4 stricken.

The Bourne amendment was adopted with 27 ayes, 2 nays, 15 present and not voting, and 5 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 27 ayes, 4 nays, 14 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 29 ayes, 3 nays, 14 present and not voting, and 3 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 566.** E & R amendment, AM7069, found on page 1044, was adopted.

Senator D. Pederson renewed his pending amendment, AM1315, found on page 1304.

The D. Pederson amendment was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Senator Schimek renewed her pending amendment, AM0993, printed separately and referred to on page 1528.

The Schimek amendment was adopted with 28 ayes, 0 nays, 18 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

### SELECT COMMITTEE REPORTS Enrollment and Review

#### Correctly Engrossed

The following bills were correctly engrossed: LBs 90, 90A, 312, and 312A.

ER9038

Enrollment and Review Change to LB 90

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E & R amendments, AM7099, on page 8, line 16, "has" has been inserted after the comma.

ER9037

## Enrollment and Review Change to LB 312

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Redfield amendment, AM1615, on page 1, lines 9 and 14, "43" has been struck and "47" inserted.
2. In the Connealy et al. amendment, AM1608, on page 24, line 8, the comma has been struck and an underscored period inserted.
3. In the E & R amendments, AM7100:
  - a. On page 63, line 7, "the" has been struck; and
  - b. On page 76, line 8, "the" has been inserted after "(f)".
4. On page 1, the matter beginning with "the" in line 1 through line 9 and all amendments thereto have been struck and "revenue and taxation; to amend sections 49-801.01, 66-1349, 77-202, 77-1229, 77-2711, 77-2715.07, 77-2717, 77-27,119, 77-27,187 to 77-27,188, 77-27,194 to 77-27,195, and 77-4109, Reissue Revised Statutes of Nebraska, and sections 66-1344, 77-2701, 77-2701.04, 77-2734.03, and 77-5536, Revised Statutes Supplement, 2004; to provide for and change provisions relating to tax incentives, credits, refunds, and exemptions; to rename the Employment Expansion and Investment Incentive Act; to adopt the Nebraska Advantage Act, the Nebraska Advantage Research and Development Act, and the Nebraska Advantage Microenterprise Tax Credit Act; to harmonize provisions; to provide an operative date; and to repeal the original sections." inserted.

(Signed) Michael Flood, Chairperson

**AMENDMENT - Print in Journal**

Senator Beutler filed the following amendment to LB 48:  
AM1652

(Amendments to Standing Committee amendments, AM0662)

- 1 1. Insert the following new sections:
- 2 "Sec. 3. Section 19-4624, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 19-4624. Sections 19-4624 to ~~19-4645~~ 19-4640 shall be
- 5 known and may be cited as the Municipal Natural Gas System
- 6 Condemnation Act.
- 7 Sec. 4. Section 19-4628, Revised Statutes Supplement,
- 8 2004, is amended to read:
- 9 19-4628. (1) A city proposing to acquire a gas system
- 10 through the exercise of the power of eminent domain shall initiate
- 11 the process by ordering the preparation of a resolution of intent
- 12 to pursue condemnation of the gas system in accordance with the
- 13 requirements of the Municipal Natural Gas System Condemnation Act
- 14 by a vote of a majority of the members of the governing body of the

15 city.

16 (2) The resolution of intent shall describe the property  
17 subject to the proposed condemnation, including the types of  
18 property and facilities to be subject to the condemnation and the  
19 extent and amount of property to be appropriated.

20 Sec. 5. Section 19-4630, Revised Statutes Supplement,  
21 2004, is amended to read:

22 19-4630. (1) The resolution of intent to pursue  
23 condemnation shall be presented to the governing body of the city  
1 at a regular meeting of such governing body. At that meeting the  
2 governing body may adopt the resolution of intent and, if it does  
3 so, shall set a time ~~at least forty-five days after the date of the~~  
4 ~~meeting at which the resolution of intent was adopted~~ at which time  
5 the governing body of the city shall hold a public hearing.

6 (2) At the public hearing, the sole item of business to  
7 be conducted shall be the public hearing on the resolution of  
8 intent at which the public shall be permitted to comment on the  
9 proposed condemnation, the utility shall be permitted to respond to  
10 ~~the statements set out in~~ the resolution of intent and any comments  
11 made at the public hearing, and the governing body may act as  
12 provided in section 19-4631.

13 (3) The clerk of the city shall transmit a copy of the  
14 resolution of intent and notice of the date and time of the public  
15 hearing to the utility by United States registered mail with  
16 signature confirmation, ~~within seven days after the meeting at~~  
17 ~~which the resolution of intent was adopted.~~ At least thirty days  
18 prior to the public hearing, the city shall publish notice of the  
19 time and place of the public hearing and a summary of the  
20 resolution of intent in a legal newspaper published in or of  
21 general circulation in the city.

22 (4) The utility may present to the city a description of  
23 portions of the gas system which (a) are not described as part of  
24 the gas system being condemned by the city and (b) are served  
25 through the town border station of the city. The utility may  
26 require the city to include in its description of the gas system  
27 being condemned any or all of those portions of the system if the  
1 proposed condemnation would sever those portions of the system from  
2 the utility's distribution facilities and would require the utility  
3 to create new infrastructure to link these portions to its existing  
4 delivery system outside the city. If the utility chooses to  
5 require the city to include additional portions of the gas system  
6 in the description of the property being condemned, it shall do so  
7 prior to the adjournment of the public hearing.

8 Sec. 6. Section 19-4632, Revised Statutes Supplement,  
9 2004, is amended to read:

10 19-4632. Following the adoption of the motion, including  
11 an override of any veto, if necessary, the clerk of the city shall  
12 transmit to the Chief Justice of the Supreme Court notice of the  
13 decision of the city to pursue condemnation of the gas system. The

14 Supreme Court shall, within thirty days after the receipt of such  
15 notice, appoint three judges of the district court from three of  
16 the judicial districts of the state to constitute a court of  
17 condemnation valuation to ascertain and find the value of the gas  
18 system being taken. The Supreme Court shall enter an order  
19 requiring the judges to attend as a court of condemnation valuation  
20 at the county seat of the county in which the city is located,  
21 within such time as may be stated in the order, except upon  
22 stipulation by all necessary parties as to the value of the gas  
23 system filed with the Supreme Court prior to such date. The judges  
24 shall attend as ordered and at the first meeting shall select a  
25 presiding judge, organize, and proceed with the court's duties.  
26 The court may adjourn from time to time and shall fix a time for  
27 the appearance before it of all such corporations or persons as the  
1 court may deem necessary to be made parties to such condemnation  
2 proceedings or which the city or the utility may desire to have  
3 made a party to the proceedings. If such time of appearance shall  
4 occur after any proceedings have begun, the proceedings shall be  
5 reviewed by the court, as it may direct, to give all parties full  
6 opportunity to be heard. All corporations or persons, including  
7 all mortgagees, bondholders, trustees for bondholders,  
8 leaseholders, or other parties or persons claiming any interest in  
9 or lien upon the gas system, may be made parties to the  
10 proceedings. All parties shall be served with notice of the  
11 proceedings and the time and place of the meeting of the court of  
12 condemnation valuation in the same manner and for such length of  
13 time as the service of a summons in cases begun in the district  
14 court, either by personal service or service by publication, and  
15 actual personal service of notice within or without the state shall  
16 supersede the necessity of notice by publication.  
17 Sec. 7. Section 19-4633, Revised Statutes Supplement,  
18 2004, is amended to read:  
19 19-4633. In all proceedings before it, the court of  
20 condemnation valuation shall appoint a reporter of its proceedings  
21 who shall report and preserve all evidence introduced before it.  
22 The clerk of the district court, in the county where the city is  
23 located, shall attend upon the court of condemnation valuation and  
24 perform the duties of the clerk thereof, as the court of  
25 condemnation valuation may direct. The sheriff of the county or  
26 any of his or her deputies shall attend upon the court and shall  
27 have power to serve summonses, subpoenas, and all other orders or  
1 papers ordered to be served by the court. In case of a vacancy on  
2 the court, the vacancy shall be filled by the Supreme Court if the  
3 vacancy occurs while the Supreme Court is in session, and if it  
4 occurs while the Supreme Court is not in session, then by the Chief  
5 Justice. The judges constituting the court of condemnation  
6 valuation shall be paid by the city a per diem for their services  
7 in an amount to be established by rule of the Supreme Court and the  
8 city shall pay their necessary traveling expenses, accommodation

9 bills, and all other necessary expenses incurred while in  
10 attendance upon the sittings of the court of ~~condemnation~~  
11 valuation, with reimbursement for expenses to be made as provided  
12 in sections 81-1174 to 81-1177. The city shall pay the reporter  
13 that is appointed by the court the amount that is set by the court.  
14 The sheriff shall serve all summonses, subpoenas, or other orders  
15 or papers ordered issued or served by the court of ~~condemnation~~  
16 valuation at the same rate and compensation for which he or she  
17 serves like papers issued by the district court, but shall account  
18 to the county for all compensation as required of him or her under  
19 the law governing his or her duties as sheriff.

20 Sec. 8. Section 19-4634, Revised Statutes Supplement,  
21 2004, is amended to read:

22 19-4634. (1) In ascertaining the value of the gas  
23 system, the court of ~~condemnation~~ valuation shall have full power  
24 to summon witnesses, administer oaths, take evidence, order the  
25 taking of depositions, and require the production of any and all  
26 books and papers deemed necessary for a full investigation and  
27 ascertainment of the value of any portion of the gas system. When  
1 part of the gas system appropriated under the Municipal Natural Gas  
2 System Condemnation Act extends beyond the territory within which  
3 the city exercising the power of eminent domain has a right to  
4 operate the gas system, the court of ~~condemnation~~ valuation, in  
5 determining the damages caused by the appropriation, shall take  
6 into consideration the fact that the portion of the gas system  
7 beyond that territory is being detached and not appropriated by the  
8 city, and the court of ~~condemnation~~ valuation shall award damages  
9 by reason of the detachment and the destruction in value and  
10 usefulness of the detached and unappropriated property as it will  
11 remain and be left after the detachment and appropriation. The  
12 court shall have all the necessary powers and perform all the  
13 necessary duties in the condemnation and ascertainment of the value  
14 and in making an award of the value of the gas system.

15 (2) The court of ~~condemnation~~ valuation shall have power  
16 to apportion the costs of the proceedings before it between the  
17 city and the utility, and the city shall provide for and pay the  
18 costs as ordered by the court. The city shall make provisions for  
19 the necessary funds and expenses to carry on the proceedings of the  
20 court while the proceedings are in progress. ~~If the governing body~~  
21 ~~of the city elects to abandon the condemnation proceedings, the~~  
22 ~~city shall pay all the costs made before the court.~~

23 (3) ~~If the services of expert witnesses or attorneys are~~  
24 ~~secured by the utility, their fees or compensation as billed to the~~  
25 ~~utility are to be taxed and paid as costs by the city to the extent~~  
26 ~~that the court determines that the fees and compensation sought (a)~~  
27 ~~reflect the prevailing industry or professional charges for such~~  
1 ~~services in cases of the size involved in the condemnation and (b)~~  
2 ~~were reasonably necessary to a just and accurate determination of~~  
3 ~~the value of the gas system.~~ The costs of any appeal shall be

4 adjudged against the party defeated in the appeal in the same  
5 degree and manner as is done under the general court practice  
6 relating to appellate proceedings.

7 Sec. 9. Section 19-4635, Revised Statutes Supplement,  
8 2004, is amended to read:

9 19-4635. (1) Upon the determination and filing of a  
10 finding of the value of the gas system by the court of ~~condemnation~~  
11 valuation, the city shall have the right and power, by resolution  
12 adopted by a majority of the members of its governing body, to  
13 elect to abandon the proceedings to acquire the gas system by the  
14 exercise of the power of eminent domain.

15 (2) If the city (a) does not elect to abandon within  
16 ninety days after the finding and filing of value or (b) formally  
17 notifies the utility by United States registered mail with  
18 signature confirmation that its governing body has voted to proceed  
19 with the condemnation, the utility owning the gas system may appeal  
20 from the finding of value and award by the court of ~~condemnation~~  
21 valuation to the ~~district court~~ Court of Appeals.

22 (3) The appeal shall be made by filing with the city  
23 clerk within twenty days after (a) the expiration of the time given  
24 the city to exercise its rights of abandonment or (b) the date of  
25 the receipt of the notice of the city's intent to proceed with  
26 condemnation, a bond to be approved by the court of ~~condemnation~~  
27 valuation, conditioned for the payment of all costs which may be  
1 made on any appeal, and by filing in the ~~district court~~ Court of  
2 Appeals, within ninety days after such bond is filed, a transcript  
3 of the proceedings before the court of ~~condemnation~~ valuation,  
4 including the evidence taken before it, certified by the clerk,  
5 reporter, and judges of the court of ~~condemnation~~ valuation. The  
6 appeal in the ~~district court~~ Court of Appeals shall be tried and  
7 determined upon the pleadings, proceedings, and evidence in the  
8 transcript.

9 (4) Notwithstanding the provisions of subsection (1) of  
10 this section, the city may abandon the proceedings to acquire the  
11 gas system by the exercise of the power of eminent domain at any  
12 time prior to taking physical possession of the gas system.

13 Sec. 10. Section 19-4636, Revised Statutes Supplement,  
14 2004, is amended to read:

15 19-4636. Upon the hearing of the appeal in the ~~district~~  
16 ~~court~~ Court of Appeals, judgment shall be pronounced, as in  
17 ordinary cases, for the value of the gas system. The city or  
18 utility may appeal the judgment to the Supreme Court. All actions  
19 and proceedings under the Municipal Natural Gas System Condemnation  
20 Act which are heard by the ~~district court~~ Court of Appeals or the  
21 Supreme Court shall be expedited for hearing and decision by the  
22 appropriate court as soon as the issues and parties are properly  
23 before such court. Such proceedings and actions shall be preferred  
24 over all other civil cases irrespective of their position on the  
25 calendar.

26 Sec. 11. Section 19-4637, Revised Statutes Supplement,  
27 2004, is amended to read:

1 19-4637. (1) A city shall not appropriate a gas system  
2 through the exercise of the power of eminent domain without the  
3 approval of the registered voters of the city as provided in the  
4 Municipal Natural Gas System Condemnation Act.  
5 (2) At such time as ~~(a) the court of condemnation~~  
6 ~~valuation~~ has finally determined the value of the gas system, ~~and~~  
7 ~~no appeal has been perfected to the district court from that~~  
8 ~~determination by the city or the utility, (b) the district court~~  
9 ~~has pronounced its final judgment on the value of the gas system,~~  
10 ~~and neither the utility or city has perfected an appeal to the~~  
11 ~~Supreme Court from such judgment, or (c) the Supreme Court has~~  
12 ~~pronounced its final judgment on the value of the gas system,~~ the  
13 governing body of the city may submit to the registered voters of  
14 the city at any general or special city election the question of  
15 whether the city should acquire the gas system by the exercise of  
16 the power of eminent domain at the price established by the court  
17 of ~~condemnation valuation~~, the ~~district court~~ Court of Appeals, or  
18 the Supreme Court as the case may be. The ballot language shall  
19 describe the property to be acquired and the interest in the  
20 property being sought and shall recite the cost of the acquisition  
21 as adjudged by the court establishing the value of the gas system.  
22 The ballot question shall be in the following form:  
23 Shall the city of (name of city) acquire by the exercise  
24 of the power of eminent domain the gas system currently owned by  
25 (name of utility); ~~at a total cost of (set out the total dollar~~  
26 ~~amount to be awarded to the utility as determined by the court of~~  
27 ~~condemnation, the district court, or the Supreme Court as the case~~  
1 ~~may be):~~ ....Yes ....No

2 (3) The city shall submit the question to the registered  
3 voters in the manner prescribed in the Election Act. The question  
4 may be placed before the registered voters of the city at any  
5 general or special city election called for the purpose and may be  
6 submitted in connection with any city special election called for  
7 any other purpose. The votes cast on the question shall be  
8 canvassed and the result found and declared as prescribed in the  
9 Election Act.

10 Sec. 12. Section 19-4638, Revised Statutes Supplement,  
11 2004, is amended to read:

12 19-4638. If the election at which the question is  
13 submitted is a special election and sixty percent of the votes cast  
14 upon such proposition are in favor, or if the election at which the  
15 question is submitted is a general election and a majority of the  
16 votes cast upon such proposition are in favor, then the officer  
17 possessing the power and duty to ascertain and declare the result  
18 of the election shall certify the result immediately to the  
19 governing body of the city. The governing body of the city may  
20 then proceed to tender the amount of the value and award made by

21 the court of ~~condemnation valuation~~, ~~district court~~ the Court of  
 22 Appeals, or the Supreme Court to the utility owning the gas system  
 23 and shall have the right and power to take immediate possession of  
 24 the gas system upon the tender."

25 2. On page 2, lines 20 and 21; and page 4, line 9,

26 strike "7 to 14" and insert "17 to 24".

27 3. On page 5, line 27, strike "10 and 11" and insert "20  
 1 and 21".

2 4. On page 8, line 18; and page 10, line 19, strike "2"  
 3 and insert "19".

4 5. On page 14, line 12, strike "section" and insert  
 5 "sections" and after the second comma insert "19-4624, 19-4628,  
 6 19-4630, and 19-4632 to 19-4638"; and in line 16 after "Nebraska"  
 7 insert ", and sections 19-4629 and 19-4641 to 19-4645, Revised  
 8 Statutes Supplement, 2004".

9 6. Renumber the remaining sections accordingly.

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 348A.** Introduced by Bourne, 8.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 348, Ninety-ninth Legislature, First Session, 2005.

### **EASE**

The Legislature was at ease from 10:52 a.m. until 11:22 a.m.

### **SELECT FILE**

**LEGISLATIVE BILL 126.** E & R amendment, AM7018, found on page 573, was adopted.

Senator Fischer reoffered her amendment, AM0100, found on page 511 and considered on page 519.

Senator Fischer asked unanimous consent to withdraw her pending amendment, AM0100, found on page 511, and replace it with the Louden-Fischer substitute amendment, AM1217. No objections. So ordered.  
 AM1217

1 1. Strike original sections 5, 13, 18, 22, 25, 28, 35,  
 2 44, 46, and 47 and all amendments thereto and insert the following  
 3 new sections:

4 "Sec. 4. If, on December 1, 2005, the elementary  
 5 attendance center of an affiliated Class I district meets one or  
 6 more of the requirements of subdivisions (1) through (4) of this

7 section, such Class I district shall not be subject to a  
8 dissolution order pursuant to section 2 or 3 of this act and shall  
9 continue to be affiliated with the Class II, III, IV, or V school  
10 district or districts with which it is affiliated on such date.  
11 The elementary attendance center shall meet at least one of the  
12 following requirements:  
13 (1) The fall membership of the elementary attendance  
14 center for the school year immediately preceding the first school  
15 year in which the elementary attendance center would be closed or  
16 the grades offered would be changed included a total number of  
17 students that was at least two times the number of grades in which  
18 students are enrolled at the elementary attendance center for the  
19 school year in which the fall membership was measured;  
20 (2) The elementary attendance center is at least four  
21 miles from another elementary attendance center within the district  
22 on a reasonably maintained public highway or the elementary  
23 attendance center is the only elementary attendance center located  
24 within the boundaries of an incorporated city or village. For  
1 purposes of this subdivision, any public highway, road, or street  
2 with a functional classification as a minimum maintenance road and  
3 highway pursuant to sections 39-2103 and 39-2113 does not qualify  
4 as a reasonably maintained public highway;  
5 (3) The three-year average cost per pupil in the average  
6 daily membership, less special education and transportation costs,  
7 of the elementary attendance center for the school year immediately  
8 preceding the first school year in which the elementary attendance  
9 center would be closed or the grades offered would be changed was  
10 equal to or lower than the three-year average cost per pupil in the  
11 average daily membership, less special education and transportation  
12 costs, of the Class II, III, IV, or V school district; or  
13 (4) The three-year average student achievement in grades  
14 tested pursuant to section 79-760 for the school year immediately  
15 preceding the first school year in which the elementary attendance  
16 center would be closed or the grades offered would be changed was  
17 equal to or greater than the three-year average student achievement  
18 for students in corresponding grades in the Class II, III, IV, or V  
19 district.  
20 Sec. 30. (1) Beginning June 15, 2006, the school board  
21 of any Class II, III, IV, or V school district shall not take  
22 action to close an elementary attendance center or to change the  
23 elementary grades offered at an elementary attendance center if:  
24 (a) The fall membership of the elementary attendance  
25 center for the school year immediately preceding the first school  
26 year in which the elementary attendance center would be closed or  
27 the grades offered would be changed included a total number of  
1 students that was at least two times the number of grades in which  
2 students are enrolled at the elementary attendance center for the  
3 school year in which the fall membership was measured;  
4 (b) The elementary attendance center is at least four

5 miles from another elementary attendance center within the district  
6 on a reasonably maintained public highway or the elementary  
7 attendance center is the only elementary attendance center located  
8 within the boundaries of an incorporated city or village. For  
9 purposes of this subdivision, any public highway, road, or street  
10 with a functional classification as a minimum maintenance road and  
11 highway pursuant to sections 39-2103 and 39-2113 does not qualify  
12 as a reasonably maintained public highway;

13 (c) The three-year average cost per pupil in the average  
14 daily membership, less special education and transportation costs,  
15 of the elementary attendance center for the school year immediately  
16 preceding the first school year in which the elementary attendance  
17 center would be closed or the grades offered would be changed was  
18 equal to or lower than the three-year average cost per pupil in the  
19 average daily membership, less special education and transportation  
20 costs, of the Class II, III, IV, or V school district; or

21 (d) The three-year average student achievement in grades  
22 tested pursuant to section 79-760 for the school year immediately  
23 preceding the first school year in which the elementary attendance  
24 center would be closed or the grades offered would be changed was  
25 equal to or greater than the three-year average student achievement  
26 for students in corresponding grades in the Class II, III, IV, or V  
27 district.

1 (2) The temporary relocation of some or all of the  
2 students to an alternate elementary attendance center for a period  
3 not to exceed two years shall not constitute the closing of an  
4 elementary attendance center or a change in the grades offered at  
5 such elementary attendance center. An alternate elementary  
6 attendance center pursuant to this subsection shall not be subject  
7 to subsection (1) of this section.

8 (3) The grades offered at the elementary attendance  
9 center shall include any grade for which a student could enroll and  
10 receive education at the elementary attendance center for the  
11 specified school year.

12 (4) For purposes of this section, elementary attendance  
13 center means a building in which education was offered by a school  
14 district in one or more of the grades kindergarten through grade  
15 eight.

16 Sec. 31. Section 79-543, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 79-543. No person shall file for office, be nominated or  
19 elected, or serve as a member of a school board in any class of  
20 school district unless he or she is a legal voter in such district.  
21 For elections to be held during 2006, the legal voters of a Class  
22 II, III, IV, or VI school district shall include residents of  
23 territory that will be attached to such school district on June 15,  
24 2006, pursuant to section 2 or 3 of this act.

25 Sec. 35. Section 79-1001, Revised Statutes Supplement,  
26 2004, is amended to read:

- 27 79-1001. Sections 79-1001 to 79-1033 and section 40 of  
1 this act shall be known and may be cited as the Tax Equity and  
2 Educational Opportunities Support Act.
- 3 Sec. 40. (1) If, in calculating state aid for a local  
4 system, the weighted formula student calculation for such local  
5 system under section 79-1007.01 is adjusted by one or more of the  
6 demographic factors described in subdivision (1)(c) of such section  
7 for the calculation of adjusted formula students pursuant to such  
8 section, the local system shall allocate the additional state aid  
9 it receives as a result of such adjustments to the attendance  
10 centers in the local system in which the students affected by such  
11 demographic factors are enrolled, to be spent on the additional  
12 costs generated by such factors.
- 13 (2) For purposes of assisting local systems in carrying  
14 out the requirements of this section, the State Department of  
15 Education shall calculate for each local system described in  
16 subsection (1) of this section the amount of aid it would have  
17 received without the adjustments pursuant to subdivision (1)(c) of  
18 section 79-1007.01. The local system shall demonstrate, through  
19 the annual audits of the districts in the local system required  
20 pursuant to section 79-1089, that its expenditures comply with the  
21 requirements of this section.
- 22 (3) The State Department of Education shall adopt and  
23 promulgate rules and regulations to carry out the requirements of  
24 this section.
- 25 2. On page 3, line 3, strike "IV, and VI" and insert  
26 "and IV"; strike beginning with "or" in line 5 through "part" in  
27 line 6; in lines 13, 18, 24, and 28 strike "IV, or VI" and insert  
1 "or IV".
- 2 3. On page 4, lines 2 and 20, strike "or" through  
3 "part"; in lines 3, 5, 8, 11, and 18 strike "IV, or VI" and insert  
4 "or IV"; and strike beginning with "or" in line 7 through "part" in  
5 line 8.
- 6 4. On page 4, line 27; and page 6, line 4, strike  
7 "Notwithstanding" and insert "Except as provided in section 4 of  
8 this act, notwithstanding".
- 9 5. On page 5, line 1, after "section" insert "and except  
10 as provided in subsection (6) of this section"; in lines 6, 10, 13,  
11 and 15 strike "IV, or VI" and insert "or IV"; in line 7 strike "or"  
12 through "part"; and strike lines 26 through 28 and insert the  
13 following new subsection:  
14 "(6) This section does not apply to any territory of a  
15 Class I district which is part of a Class VI district on the  
16 operative date of this section.".
- 17 6. On page 6, strike lines 1 through 3; in line 10 after  
18 "act" insert "and except for any territory of any Class I district  
19 which is part of a Class VI district"; in lines 10, 20, and 24 and  
20 25 strike "IV, or VI" and insert "or IV"; strike beginning with  
21 "To" in line 12 through line 16; and in line 26 strike "IV, and VI"

22 and insert "and IV".

23 7. On page 7, line 5, after the semicolon insert "and";  
 24 strike beginning with "all" in line 5 through "(iv)" in line 7; in  
 25 lines 7, 18, and 26 strike "IV or VI" and insert "or IV"; and in  
 26 line 27 strike "or a part".

27 8. On page 8, lines 6, 8, 11, 13, and 23, strike "IV, or  
 1 VI" and insert "or IV"; and in line 19 strike "(6)" and insert  
 2 "(5)".

3 9. On page 9, lines 6 and 23, strike "IV, or VI" and  
 4 insert "or IV"; strike beginning with "On" in line 9 through "(6)"  
 5 in line 22; in line 26 strike "(7)" and insert "(6)"; and in line  
 6 28 strike "(8)" and insert "(7)".

7 10. On page 12, lines 14 through 18, strike the new  
 8 matter and reinstate the stricken matter.

9 11. On page 13, reinstate the stricken matter beginning  
 10 with "For" in line 6 through the second "school" in line 11; in  
 11 line 11 after the stricken "system" insert "district"; reinstate  
 12 the stricken matter beginning with "which" in line 11 through line  
 13 12; in line 19 reinstate the stricken "(1)" through "in", after the  
 14 reinstated "in" insert "subsection", and reinstate the stricken  
 15 "(2)"; in line 20 reinstate the stricken "of this section, no" and  
 16 strike the new matter; and reinstate the stricken matter in lines  
 17 23 through 28.

18 12. On page 14, reinstate the stricken matter in lines 1  
 19 through 15.

20 13. On page 18, reinstate the stricken matter in lines 7  
 21 through 10 and 28.

22 14. On page 19, lines 1 and 3, reinstate the stricken  
 23 matter except for the stricken "Class II, III, IV, V, or VI"; and  
 24 reinstate the stricken matter in lines 2, 4, and 5.

25 15. On page 24, line 15, strike the new matter.

26 16. On page 25, line 2, strike the new matter; reinstate  
 27 the stricken matter beginning with "the" in line 4 through "and" in  
 1 line 5; and in line 5 after the stricken "(7)" insert "(6)".

2 17. On page 26, lines 25 through 27, strike the new  
 3 matter and reinstate the stricken matter.

4 18. On page 37, lines 15 through 28; and page 38, lines  
 5 1 through 14, reinstate the stricken matter.

6 19. On page 54, strike lines 24 through 28 and show the  
 7 old matter as stricken.

8 20. On page 55, strike lines 1 through 12, show the old  
 9 matter as stricken, and insert:

10 "(28) Local system means: (a) For school fiscal years  
 11 prior to 2006-07, a Class VI district and the associated Class I  
 12 districts or a Class II, III, IV, or V district and any affiliated  
 13 Class I districts or portions of Class I districts; (b) for school  
 14 fiscal year 2006-07, a Class VI district and the associated Class I  
 15 districts or portions thereof, a Class II, III, IV, or V district  
 16 and any Class I districts or portions thereof that will be merged

17 with the Class II, III, IV, or V district on June 15, 2006,  
 18 pursuant to section 2 of this act, or a Class II, III, IV, or V  
 19 district and any Class I districts or portions thereof that will  
 20 continue to be affiliated with the Class II, III, IV, or V district  
 21 pursuant to section 4 of this act; and (c) for school fiscal year  
 22 2007-08 and each school fiscal year thereafter, a Class VI district  
 23 and the associated Class I districts or portions thereof or a Class  
 24 II, III, IV, or V district and any Class I districts or portions  
 25 thereof that will continue to be affiliated with the Class II, III,  
 26 IV, or V district pursuant to section 4 of this act. The  
 27 membership, expenditures, and resources of Class I districts that  
 1 are affiliated with multiple high school districts will be  
 2 attributed to local systems based on the percent of the Class I  
 3 valuation that is affiliated with each high school district;".  
 4 21. Amend the operative date and repealer sections so  
 5 that the sections added by this amendment become operative on their  
 6 effective date.  
 7 22. Renumber the remaining sections, amend the  
 8 repealers, and correct internal references accordingly.

Pending.

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 225.** Introduced by Health and Human Services Committee: Jensen, 20, Chairperson; Byars, 30; Cunningham, 40; Erdman, 47; Howard, 9; Johnson, 37; Stuthman, 22.

**PURPOSE:** The purpose of this study is to examine and address various health and human services issues within the jurisdiction of the Health and Human Services Committee of the Legislature, including, but not limited to: Health and human services planning and evaluation; the statewide behavioral health system; the Nebraska Mental Health Commitment Act; health insurance availability and affordability; prescription drug access and policy; the medical assistance program established in section 68-1018; the Nebraska Health Care Funding Act; public health law and policy; the Nebraska Health and Human Services System; the Nebraska Clean Indoor Air Act; the Uniform Licensing Law; the regional administrative structure for the delivery of state developmental disability programs and services, mental health programs and services, and aging programs and services; marriage and family preservation; children in out-of-home care; the Welfare Reform Act; and state public assistance programs.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative

Council or Legislature.

Referred to the Executive Board.

**LEGISLATIVE RESOLUTION 226.** Introduced by Government, Military and Veterans Affairs Committee: Schimek, 27, Chairperson; Brown, 6; Burling, 33; Mines, 18; Wehrbein, 2.

**PURPOSE:** To examine Nebraska's county government structure, both revenue and spending, and overall government structure with an emphasis on whether regional services would be more efficient.

The committee shall examine all of the services provided at the county level and their purpose, role, function, and necessity.

The committee may include input from other lay, professional, organizational, and governmental representatives in analyzing and developing a report summarizing any recommendations for (a) the restructure of government and (b) amendments to the Constitution of Nebraska with respect to counties.

The committee shall provide a report to the Legislature no later than December 15, 2005, and shall include any proposed legislation for the Legislature to consider during the 2006 session.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

## **VISITORS**

Visitors to the Chamber were Roger Foster from Crete; Senator Mines' daughter, Laney Mines, from Blair; 36 fourth-grade students and teachers from Newell Elementary School, Grand Island; Jeff Warren from Blair and Brita Castrop from Omaha; and Becca Hier and Travis Williamson from Crete.

## **RECESS**

At 12:01 p.m., on a motion by Senator Friend, the Legislature recessed until 1:30 p.m.

## **AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senator Kruse who was excused; and Senators Combs, Cornett, Engel, Heidemann, Hudkins, McDonald, Dw. Pedersen, and Thompson who were excused until they arrive.

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 478A.** Introduced by Cornett, 45.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 478, Ninety-ninth Legislature, First Session, 2005.

**SELECT FILE**

**LEGISLATIVE BILL 126.** The Louden-Fischer pending amendment, AM1217, found in this day's Journal, was renewed.

Pending.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 227.** Introduced by Smith, 48.

WHEREAS, James Livingston currently serves the community of Scottsbluff as the chief of police; and

WHEREAS, Chief Livingston is retiring on June 3, 2005, after twenty-nine years of service in law enforcement; and

WHEREAS, Chief Livingston should be honored for his dedicated years of service to the grateful citizens of Scottsbluff.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That Chief James Livingston be congratulated for his exemplary service as chief of police to the community of Scottsbluff.

2. That a copy of this resolution be sent to Chief Livingston.

Laid over.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**LEGISLATIVE BILL 478.** Placed on Select File as amended.

E & R amendment to LB 478:

AM7101

1 1. Strike the original sections and all amendments

2 thereto and insert the following new sections:

3 "Section 1. Section 77-2716, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 77-2716. (1) The following adjustments to federal  
6 adjusted gross income or, for corporations and fiduciaries, federal  
7 taxable income shall be made for interest or dividends received:

8 (a) There shall be subtracted interest or dividends  
9 received by the owner of obligations of the United States and its  
10 territories and possessions or of any authority, commission, or  
11 instrumentality of the United States to the extent includable in  
12 gross income for federal income tax purposes but exempt from state  
13 income taxes under the laws of the United States;

14 (b) There shall be subtracted that portion of the total  
15 dividends and other income received from a regulated investment  
16 company which is attributable to obligations described in  
17 subdivision (a) of this subsection as reported to the recipient by  
18 the regulated investment company;

19 (c) There shall be added interest or dividends received  
20 by the owner of obligations of the District of Columbia, other  
21 states of the United States, or their political subdivisions,  
22 authorities, commissions, or instrumentalities to the extent  
23 excluded in the computation of gross income for federal income tax  
24 purposes except that such interest or dividends shall not be added  
1 if received by a corporation which is a regulated investment  
2 company;

3 (d) There shall be added that portion of the total  
4 dividends and other income received from a regulated investment  
5 company which is attributable to obligations described in  
6 subdivision (c) of this subsection and excluded for federal income  
7 tax purposes as reported to the recipient by the regulated  
8 investment company; and

9 (e)(i) Any amount subtracted under this subsection shall  
10 be reduced by any interest on indebtedness incurred to carry the  
11 obligations or securities described in this subsection or the  
12 investment in the regulated investment company and by any expenses  
13 incurred in the production of interest or dividend income described  
14 in this subsection to the extent that such expenses, including  
15 amortizable bond premiums, are deductible in determining federal  
16 taxable income.

17 (ii) Any amount added under this subsection shall be  
18 reduced by any expenses incurred in the production of such income  
19 to the extent disallowed in the computation of federal taxable  
20 income.

21 (2) There shall be allowed a net operating loss derived  
22 from or connected with Nebraska sources computed under rules and  
23 regulations adopted and promulgated by the Tax Commissioner  
24 consistent, to the extent possible under the Nebraska Revenue Act  
25 of 1967, with the laws of the United States. For a resident  
26 individual, estate, or trust, the net operating loss computed on

27 the federal income tax return shall be adjusted by the  
1 modifications contained in this section. For a nonresident  
2 individual, estate, or trust or for a partial-year resident  
3 individual, the net operating loss computed on the federal return  
4 shall be adjusted by the modifications contained in this section  
5 and any carryovers or carrybacks shall be limited to the portion of  
6 the loss derived from or connected with Nebraska sources.

7 (3) There shall be subtracted from federal adjusted gross  
8 income for all taxable years beginning on or after January 1, 1987,  
9 the amount of any state income tax refund to the extent such refund  
10 was deducted under the Internal Revenue Code, was not allowed in  
11 the computation of the tax due under the Nebraska Revenue Act of  
12 1967, and is included in federal adjusted gross income.

13 (4) Federal adjusted gross income, or, for a fiduciary,  
14 federal taxable income shall be modified to exclude the portion of  
15 the income or loss received from a small business corporation with  
16 an election in effect under subchapter S of the Internal Revenue  
17 Code or from a limited liability company organized pursuant to the  
18 Limited Liability Company Act that is not derived from or connected  
19 with Nebraska sources as determined in section 77-2734.01.

20 (5) There shall be subtracted from federal adjusted gross  
21 income or, for corporations and fiduciaries, federal taxable income  
22 dividends received or deemed to be received from corporations which  
23 are not subject to the Internal Revenue Code.

24 (6) There shall be subtracted from federal taxable income  
25 a portion of the income earned by a corporation subject to the  
26 Internal Revenue Code of 1986 that is actually taxed by a foreign  
27 country or one of its political subdivisions at a rate in excess of  
1 the maximum federal tax rate for corporations. The taxpayer may  
2 make the computation for each foreign country or for groups of  
3 foreign countries. The portion of the taxes that may be deducted  
4 shall be computed in the following manner:

5 (a) The amount of federal taxable income from operations  
6 within a foreign taxing jurisdiction shall be reduced by the amount  
7 of taxes actually paid to the foreign jurisdiction that are not  
8 deductible solely because the foreign tax credit was elected on the  
9 federal income tax return;

10 (b) The amount of after-tax income shall be divided by  
11 one minus the maximum tax rate for corporations in the Internal  
12 Revenue Code; and

13 (c) The result of the calculation in subdivision (b) of  
14 this subsection shall be subtracted from the amount of federal  
15 taxable income used in subdivision (a) of this subsection. The  
16 result of such calculation, if greater than zero, shall be  
17 subtracted from federal taxable income.

18 (7) Federal adjusted gross income shall be modified to  
19 exclude any amount repaid by the taxpayer for which a reduction in  
20 federal tax is allowed under section 1341(a)(5) of the Internal  
21 Revenue Code.

22 (8)(a) There shall be subtracted from federal adjusted  
23 gross income an amount equal to the difference between the amount  
24 qualified for calculation of a deduction as provided in section  
25 162(l) of the Internal Revenue Code and the amount actually allowed  
26 pursuant to section 162(l)(1) of the Internal Revenue Code.

27 (b) For an individual who itemized deductions on his or  
1 her federal return, the maximum amount subtracted under subdivision  
2 (8)(a) of this section shall be seven and one-half percent of  
3 federal adjusted gross income.

4 (9)(a) Federal adjusted gross income or, for corporations  
5 and fiduciaries, federal taxable income shall be reduced, to the  
6 extent included, by income from interest, earnings, and state  
7 contributions received from the Nebraska educational savings plan  
8 trust created in sections 85-1801 to 85-1814.

9 (b) Federal adjusted gross income or, for corporations  
10 and fiduciaries, federal taxable income shall be reduced, to the  
11 extent not deducted for federal income tax purposes, by the amount  
12 of any gift, grant, or donation made to the Nebraska educational  
13 savings plan trust for deposit in the endowment fund of the trust.

14 (c) Federal adjusted gross income or, for corporations  
15 and fiduciaries, federal taxable income shall be reduced by any  
16 contributions as a participant in the Nebraska educational savings  
17 plan trust, not to exceed five hundred dollars per married filing  
18 separate return or one thousand dollars for any other return.

19 (d) Federal adjusted gross income or, for corporations  
20 and fiduciaries, federal taxable income shall be increased by the  
21 amount resulting from the cancellation of a participation agreement  
22 refunded to the taxpayer as a participant in the Nebraska  
23 educational savings plan trust to the extent previously deducted as  
24 a contribution to the trust.

25 (10)(a) For income tax returns filed after September 10,  
26 2001, federal adjusted gross income or, for corporations and  
27 fiduciaries, federal taxable income shall be increased by

1 eighty-five percent of any amount of any federal bonus depreciation  
2 received under the federal Job Creation and Worker Assistance Act  
3 of 2002 or the federal Jobs and Growth Tax Act of 2003, under  
4 section 168(k) or section 1400L of the Internal Revenue Code of  
5 1986, as amended, for assets placed in service after September 10,  
6 2001, and before December 31, 2005.

7 (b) For a partnership, limited liability company,  
8 cooperative, including any cooperative exempt from income taxes  
9 under section 521 of the Internal Revenue Code of 1986, as amended,  
10 subchapter S corporation, or joint venture, the increase shall be  
11 distributed to the partners, members, shareholders, patrons, or  
12 beneficiaries in the same manner as income is distributed for use  
13 against their income tax liabilities.

14 (c) For a corporation with a unitary business having  
15 activity both inside and outside the state, the increase shall be  
16 apportioned to Nebraska in the same manner as income is apportioned

17 to the state by section 77-2734.05.

18 (d) The amount of bonus depreciation added to federal  
19 adjusted gross income or, for corporations and fiduciaries, federal  
20 taxable income by this subsection shall be subtracted in a later  
21 taxable year. Twenty percent of the total amount of bonus  
22 depreciation added back by this subsection for tax years beginning  
23 or deemed to begin before January 1, 2003, under the Internal  
24 Revenue Code of 1986, as amended, may be subtracted in the first  
25 taxable year beginning or deemed to begin on or after January 1,  
26 2005, under the Internal Revenue Code of 1986, as amended, and  
27 twenty percent in each of the next four following taxable years.

1 Twenty percent of the total amount of bonus depreciation added back  
2 by this subsection for tax years beginning or deemed to begin on or  
3 after January 1, 2003, may be subtracted in the first taxable year  
4 beginning or deemed to begin on or after January 1, 2006, under the  
5 Internal Revenue Code of 1986, as amended, and twenty percent in  
6 each of the next four following taxable years.

7 (11) For taxable years beginning or deemed to begin on or  
8 after January 1, 2003, under the Internal Revenue Code of 1986, as  
9 amended, federal adjusted gross income or, for corporations and  
10 fiduciaries, federal taxable income shall be increased by the  
11 amount of any capital investment that is expensed under section 179  
12 of the Internal Revenue Code of 1986, as amended, that is in excess  
13 of twenty-five thousand dollars that is allowed under the federal  
14 Jobs and Growth Tax Act of 2003. Twenty percent of the total  
15 amount of expensing added back by this subsection for tax years  
16 beginning or deemed to begin on or after January 1, 2003, may be  
17 subtracted in the first taxable year beginning or deemed to begin  
18 on or after January 1, 2006, under the Internal Revenue Code of  
19 1986, as amended, and twenty percent in each of the next four  
20 following tax years.

21 (12) For taxable years beginning or deemed to begin on or  
22 after January 1, 2005, under the Internal Revenue Code of 1986, as  
23 amended, federal adjusted gross income shall be modified to exclude  
24 the amount of income received as a military retirement benefit  
25 resulting from service in the armed forces of the United States  
26 equal to one-half the amount of income earned as wages and salaries  
27 paid in Nebraska by an employer performing security classified work  
1 for the federal Department of Defense and qualified under 32 C.F.R.  
2 155.1 through 155.6, to the extent that such wages and salaries  
3 exceed forty thousand dollars during the tax year. In order to  
4 receive the exclusion provided in this subsection, the taxpayer  
5 shall submit a certification, signed by the employer's facility  
6 security officer, that the employer has received authorization to  
7 perform classified work for the federal Department of Defense.

8 Sec. 2. Original section 77-2716, Reissue Revised  
9 Statutes of Nebraska, is repealed."

10 2. On page 1, line 2, after "exclude" insert "certain".

**LEGISLATIVE BILL 713.** Placed on Select File as amended.

(E & R amendment, AM7102, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Michael Flood, Chairperson

### **SELECT FILE**

**LEGISLATIVE BILL 70.** E & R amendment, AM7088, printed separately and referred to on page 1317, was adopted.

Senator Jensen withdrew his pending amendment, AM1156, found on page 1173.

Senator Smith withdrew his pending amendment, AM1646, found on page 1615.

Senator Jensen renewed his pending amendment, AM1153, found on page 1173.

Senator Jensen offered the following amendment to his pending amendment: (Amendment, AM1613, is printed separately and available in the Bill Room, Room 1104.)

Pending.

### **AMENDMENT - Print in Journal**

Senator Stuthman filed the following amendment to LB 116:

(Amendment, AM1657, is printed separately and available in the Bill Room, Room 1104.)

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 677A.** Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 677, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

### **EASE**

The Legislature was at ease from 3:27 p.m. until 3:32 p.m.

**SELECT FILE**

**LEGISLATIVE BILL 117.** E & R amendment, AM7091, printed separately and referred to on page 1371, was adopted.

Senator Aguilar asked unanimous consent to withdraw his pending amendment, AM0901, found on page 1117, and replace it with the Bourne-Aguilar substitute pending amendment, AM1592, found on page 1556. No objections. So ordered.

Senator Chambers requested a division of the question on the Bourne-Aguilar amendment.

The Chair sustained the division of the question.

The first Bourne-Aguilar amendment is as follows:  
FA281

(Amendments to E & R amendments, AM7091)

- 1 1. Insert the following new section:
- 2 "Sec. 7. Section 28-707, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 28-707. (1) A person commits child abuse if he or she
- 5 knowingly, intentionally, or negligently causes or permits a minor
- 6 child to be:
- 7 (a) Placed in a situation that endangers his or her life
- 8 or physical or mental health;
- 9 (b) Cruelly confined or cruelly punished;
- 10 (c) Deprived of necessary food, clothing, shelter, or
- 11 care;
- 12 (d) Placed in a situation to be sexually exploited by
- 13 allowing, encouraging, or forcing such minor child to solicit for
- 14 or engage in prostitution, debauchery, public indecency, or obscene
- 15 or pornographic photography, films, or depictions; ~~or~~
- 16 (e) Placed in a situation to be sexually abused as
- 17 defined in section 28-319 or 28-320.01; or
- 18 (f) Placed in or near the processing, cooking, or
- 19 manufacturing of methamphetamine.
- 20 (2) The statutory privilege between patient and
- 21 physician, between client and professional counselor, and between
- 22 husband and wife shall not be available for excluding or refusing
- 23 testimony in any prosecution for a violation of this section.
- 1 (3) Child abuse is a Class I misdemeanor if the offense
- 2 is committed negligently.
- 3 (4) Child abuse is a Class IIIA felony if the offense is
- 4 committed knowingly and intentionally and does not result in
- 5 serious bodily injury as defined in section 28-109.
- 6 (5) Child abuse is a Class III felony if the offense is
- 7 committed knowingly and intentionally and results in serious bodily
- 8 injury as defined in ~~such~~ section 28-109.

9 (6) Child abuse is a Class IB felony if the offense is  
10 committed knowingly and intentionally and results in the death of  
11 such child."

**SENATOR ENGEL PRESIDING**

**SENATOR CUDABACK PRESIDING**

Pending.

**STANDING COMMITTEE REPORTS**  
**Judiciary**

**LEGISLATIVE BILL 538.** Placed on General File as amended.  
(Standing Committee amendment, AM1650, is printed separately and  
available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 703.** Placed on General File as amended.  
Standing Committee amendment to LB 703:  
AM1469

- 1 1. On page 2, strike beginning with "who" in line 7
- 2 through the comma in line 8.
- 3 2. On page 3, line 4, strike "without reduction of
- 4 sentence" and insert "as reduced by any adjustment".

(Signed) Patrick J. Bourne, Chairperson

**BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 13A.** Introduced by Landis, 46.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to  
aid in carrying out the provisions of Legislative Bill 13, Ninety-ninth  
Legislature, First Session, 2005.

**LEGISLATIVE BILL 538A.** Introduced by Brashear, 4.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to  
aid in carrying out the provisions of Legislative Bill 538, Ninety-ninth  
Legislature, First Session, 2005.

**AMENDMENT - Print in Journal**

Senator Smith filed the following amendment to LB 70:  
AM1664

(Amendments to AM1153)

- 1 1. Strike amendment 1 and all amendments thereto and

2 insert the following new amendment:

3 "1. In the E & R amendments, AM7088, strike section 8

4 and insert the following new section:

5 'Sec. 8. Section 60-6,279, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 60-6,279. (1) Except as provided in subsections (2) and

8 (3) of this section, a person shall not operate or be a passenger  
9 on a motorcycle or moped on any highway in this state unless such  
10 person is wearing eye protection and a protective helmet of the  
11 type and design manufactured for use by operators of such vehicles  
12 and unless such helmet is secured properly on his or her head with  
13 a chin strap while the vehicle is in motion. All such protective  
14 helmets shall be designed to reduce injuries to the user resulting  
15 from head impacts and shall be designed to protect the user by  
16 remaining on the user's head, deflecting blows, resisting  
17 penetration, and spreading the force of impact. Each such helmet  
18 shall consist of lining, padding, and chin strap and shall meet or  
19 exceed the standards established in the United States Department of  
20 Transportation's Federal Motor Vehicle Safety Standard No. 218, 49  
21 C.F.R. 571.218, for motorcycle helmets.

22 (2) Except as otherwise provided in subsection (3) of  
23 this section, until January 1, 2012, a person shall be exempt from  
1 subsection (1) of this section if he or she (a) is at least  
2 twenty-one years of age, (b) is equipped with eye protection, and  
3 (c) carries proof of successful completion of (i) a motorcycle  
4 safety course under the Motorcycle Safety Education Act completed  
5 prior to January 1, 2007, or (ii) a motorcycle safety course under  
6 the Motorcycle Safety and Training Act completed on or after  
7 January 1, 2007. Proof of completion of a motorcycle safety course  
8 provided by a nationally recognized motorcycle safety foundation  
9 shall meet the requirements of a course for purposes of this  
10 subsection. Such proof of course completion shall be available for  
11 inspection upon demand of any law enforcement officer.

12 (3) Until January 1, 2012, a person shall be exempt from  
13 subsection (1) of this section if he or she (a) was born prior to  
14 January 1, 1986, (b) had a Class M license prior to January 1,  
15 2005, and (c) is equipped with eye protection.

16 (4) Except for the eye protection requirements of this  
17 section, until January 1, 2012, enforcement of this section by  
18 state or local law enforcement agencies shall be accomplished only  
19 as a secondary action when an operator or passenger has been cited  
20 or charged with a violation or some other offense.

21 (5) For purposes of this section, eye protection means  
22 glasses that cover the orbital region of the operator's face, a  
23 protective face shield attached to a protective helmet, goggles, or  
24 a windshield on the motorcycle that protects the operator's  
25 horizontal line of vision in all operating positions.'."

**SELECT FILE**

**LEGISLATIVE BILL 117.** Senator Flood offered the following amendment to the first Bourne-Aguilar pending amendment:

FA284

Amend FA281

Strike "in or" from line 18.

The Flood amendment was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

The first Bourne-Aguilar pending amendment, FA281, found in this day's Journal, as amended, was renewed.

Senator Burling moved the previous question. The question is, "Shall the debate now close?"

Senator Burling moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

The motion to cease debate prevailed with 25 ayes, 1 nay, and 23 not voting.

The first Bourne-Aguilar amendment, as amended, lost with 2 ayes, 13 nays, 30 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

The second Bourne-Aguilar amendment is as follows:

FA282

12 2. On page 17, line 11, strike "nineteen" and insert  
13 "eighteen"; and in lines 19 and 20 strike "an operator's license or  
14 state identification card" and insert "a valid driver's or  
15 operator's license, a Nebraska state identification card, a  
16 military identification card, an alien registration card, or a  
17 passport".

The second Bourne-Aguilar amendment was adopted with 33 ayes, 1 nay, 11 present and not voting, and 4 excused and not voting.

The third Bourne-Aguilar amendment is as follows:

FA283

18 3. On page 18, line 7, strike ", by retail,"; in line 8  
19 after "acquire" insert ", other than wholesale acquisition by a  
20 retail business in the normal course of its trade or business,";  
21 and in line 15 strike "and" and after "28-456" insert ", and  
22 28-707".

23 4. Renumber the remaining section accordingly.

The third Bourne-Aguilar amendment was adopted with 29 ayes, 0 nays, 15

present and not voting, and 5 excused and not voting.

Senator Beutler reoffered his amendment, AM1316, found on page 1302 and considered on page 1316.

Senator Beutler asked unanimous consent to withdraw his pending amendment, AM1316, found on page 1302, and replace it with his substitute amendment, AM1655. No objections. So ordered.  
AM1655

(Amendments to E & R amendments, AM7091)

1 1. On page 18, after line 6 insert the following new  
2 subsection:  
3 "(3) By January 1, 2006, the Nebraska State Patrol shall  
4 develop and present a complete plan to the Judiciary Committee of  
5 the Legislature for an electronic log of sales of drug products  
6 subject to this section and a central repository of information  
7 collected. The plan shall include:  
8 (a) Electronic transmission of information by sellers;  
9 (b) A central repository capable of providing on-line  
10 access to the information collected in the form required by the  
11 patrol and that is secured against unauthorized access; and  
12 (c) A researched estimate of the costs of implementing  
13 and maintaining the electronic log and central repository.  
14 The plan, after review by and advice from the committee,  
15 shall be implemented by January 1, 2007, if funding for the plan is  
16 provided by the Legislature.".

Pending.

**LEGISLATIVE BILL 673.** E & R amendment, AM7086, printed separately and referred to on page 1274, was adopted.

Senator Beutler reoffered his amendment, AM1187, found on page 1176.

Senator Beutler asked unanimous consent to withdraw his pending amendment, AM1187, found on page 1176, and replace it with the Loudon substitute pending amendment, AM1587, found on page 1488. No objections. So ordered.

Senator Chambers requested a division of the question on the Loudon amendment.

Senator Chambers withdrew his request for the division of the question on the Loudon amendment.

Senator Chambers offered the following amendment to the Loudon pending amendment:

FA285

Amend AM1587

Strike Section 1.

Pending.

### AMENDMENTS - Print in Journal

Senator Brown filed the following amendment to LB 117:  
AM1467

(Amendments to E & R amendments, AM7091)

- 1 1. Insert the following new sections:
- 2 "Sec. 7. Section 60-4,111.01, Reissue Revised Statutes
- 3 of Nebraska, is amended to read:
- 4 60-4,111.01. (1) The Department of Motor Vehicles, the
- 5 courts, or law enforcement agencies may store or compile
- 6 information acquired from an operator's license or state
- 7 identification card for their statutorily authorized purposes.
- 8 (2) ~~No~~ Except as provided in sections 8 to 16 of this
- 9 act, no person having use of or access to machine-readable
- 10 information encoded on an operator's license or a state
- 11 identification card shall compile, store, preserve, trade, or sell
- 12 such information. Violation of this subsection ~~shall be~~ is a Class
- 13 IV felony.
- 14 Sec. 8. An electronic verification service provider that
- 15 sells or markets an electronic verification device to a commercial
- 16 user in Nebraska or provides support for such a device shall
- 17 present information to the Department of Motor Vehicles to
- 18 establish that such provider has sufficient infrastructure to
- 19 protect any personal information stored or maintained and has
- 20 demonstrated financial stability.
- 21 Sec. 9. A commercial user or electronic verification
- 22 service provider may capture, transmit, store, maintain a record
- 23 of, or use personal information obtained from a driver's license or
- 1 a state identification card using an electronic verification device
- 2 for age-verification, for prosecution of drug-related offenses, for
- 3 drug enforcement, or to prevent fraud.
- 4 Sec. 10. Except as otherwise provided in section 13 of
- 5 this act, a commercial user may capture or maintain a record of
- 6 personal information only as provided in section 11 of this act and
- 7 only if such commercial user has made a clear and conspicuous
- 8 disclosure to an individual who is required or requested to provide
- 9 identification as part of a commercial transaction substantially as
- 10 follows:
- 11 "The personal identification information contained on
- 12 your driver's license or state identification card is being
- 13 electronically scanned and captured as a part of this transaction
- 14 and may be recorded and retained by this establishment."
- 15 Sec. 11. Except as otherwise provided in section 13 of
- 16 this act, a commercial user or electronic verification service
- 17 provider may capture, transmit, store, maintain a record of, and

18 use personal information obtained pursuant to section 9 of this act  
19 only for the following purposes:

20 (1) Compliance or assistance with any official law  
21 enforcement investigation or the order of any state or federal  
22 administrative agency or court;

23 (2) Prevention of fraud, misrepresentation, or any  
24 similar offense pursuant to section 9 of this act against an  
25 individual providing the driver's license or state identification  
26 card;

27 (3) Defense to any action brought against a commercial  
1 user regarding the individual providing the driver's license or  
2 state identification card pursuant to section 9 of this act;

3 (4) Prosecution of any drug-related offense except that  
4 such information may not be used for investigation of the  
5 underlying offense; and

6 (5) Any other purpose expressly required or permitted by  
7 law.

8 Sec. 12. A commercial user or electronic verification  
9 service provider may maintain a record of personal information  
10 obtained pursuant to sections 9 to 11 of this act for a period of  
11 four years after the date of capture. After such four-year period,  
12 the commercial user or service provider shall delete or otherwise  
13 remove such information from its electronic records.

14 Sec. 13. A commercial user or electronic verification  
15 service provider may use personal information captured from a  
16 driver's license or state identification card if the commercial  
17 user or service provider has obtained the express consent of the  
18 individual who presented the license or card but only in the manner  
19 and to the extent that such individual has expressly authorized.

20 Sec. 14. Except as otherwise provided in sections 9 to  
21 11 of this act, no commercial user or electronic verification  
22 service provider shall buy, sell, transfer, or disclose to any  
23 other person, or maintain, download, or use in any manner, personal  
24 information captured from a driver's license or state  
25 identification card.

26 Sec. 15. A violation of sections 9 to 14 of this act is  
27 a Class IV felony.

1 Sec. 16. Any person aggrieved by a violation of sections  
2 9 to 14 of this act may bring a civil action, including an action  
3 for immediate relief by means of an injunction or other order of  
4 the court."

5 2. On page 17, line 20, strike "and"; and in line 21  
6 after "(e)" insert "After December 31, 2008, sold by a person who  
7 records the purchaser's name, address, and date of birth, the date  
8 of purchase, and the amount of the drug product purchased in an  
9 electronic format that is capable of being recorded and compiled as  
10 part of an electronic database. If an operator's license or state  
11 identification card is used to record the data required in this  
12 section, such information shall be gathered in compliance with

13 sections 8 to 16 of this act; and

14 (f)".

15 3. On page 18, line 14, after "Original" insert "section  
16 60-4,111.01, Reissue Revised Statutes of Nebraska, and".

17 4. Renumber the remaining sections accordingly.

Senator Dw. Pedersen filed the following amendment to LB 117:  
AM1076

(Amendments to Standing Committee amendments, AM0712)

- 1 1. On page 17, lines 1 through 3, 8, and 9, strike the
- 2 new matter and reinstate the stricken matter; in line 10 strike
- 3 "milligrams"; and in lines 15 and 16 and 16 and 17 strike "one
- 4 thousand four hundred forty milligrams" and insert "three grams".
- 5 2. On page 18, strike beginning with "one" in line 8
- 6 through line 10 and insert "three grams of pseudoephedrine".

Senator Synowiecki filed the following amendment to LB 117:  
AM1663

(Amendments to E & R amendments, AM7091)

- 1 1. On page 15, strike beginning with the last comma in
- 2 line 12 through "abuse" in line 14, show as stricken, and insert ":
- 3 (a) Satisfactorily attend and complete an appropriate
- 4 mental health or drug abuse assessment, conducted by a licensed
- 5 mental health professional or substance abuse professional
- 6 authorized to complete such assessment, and complete recommended
- 7 treatment and counseling"; in line 16 before the period insert ";
- 8 (b) Be subject to periodic urinalysis testing by the
- 9 supervising probation officer for the use of illegal drugs; and
- 10 (c) If convicted of violating subsection (1) of this
- 11 section with respect to amphetamine, its salts, optical isomers,
- 12 and salts of its isomers, or with respect to methamphetamine, its
- 13 salts, optical isomers, and salts of its isomers, be prohibited
- 14 from using any medication containing pseudoephedrine unless
- 15 prescribed by a practitioner"; in line 17 after "(15)" insert
- 16 "(a)"; and strike beginning with "attend" in line 18 through
- 17 "abuse" in line 19, show as stricken, and insert "satisfactorily
- 18 attend and complete an appropriate mental health or drug abuse
- 19 assessment, conducted by a licensed mental health professional or
- 20 substance abuse professional authorized to complete such
- 21 assessment, and complete recommended treatment and counseling while
- 22 serving such sentence within the department or, if such treatment
- 23 is not completed while serving such sentence, while on parole if
- 1 parole is granted.
- 2 (b) Any person convicted of violating this section, if
- 3 sentenced to the Department of Correctional Services and granted
- 4 parole shall:
- 5 (i) Be subject to periodic urinalysis testing by the
- 6 supervising parole officer for the use of illegal drugs; and
- 7 (ii) If convicted of a felony under subsection (2) or

8 (10) of this section, be prohibited from using any medication  
9 containing pseudoephedrine unless prescribed by a practitioner".

Senator Redfield filed the following amendment to LB 117:  
AM1606

(Amendments to E & R amendments, AM7091)

- 1 1. On page 17, line 23, strike "product" and insert
- 2 "products, unless such drug products are pediatric formulations in
- 3 liquid, liquid capsule, or gel capsule form and phenylpropanolamine
- 4 or pseudoephedrine is not the only active ingredient".

Senator Dw. Pedersen filed the following amendment to LB 117:  
AM1668

(Amendments to E & R amendments, AM7091)

- 1 1. On page 17, lines 1 through 3, 8, and 9, strike the
- 2 new matter and reinstate the stricken matter; in line 10 strike
- 3 "milligrams"; and in lines 15 and 16 and 16 and 17 strike "one
- 4 thousand four hundred forty milligrams" and insert "three grams".
- 5 2. On page 18, strike beginning with "one" in line 8
- 6 through line 10 and insert "three grams of pseudoephedrine".

Senator McDonald filed the following amendment to LB 332:  
AM1656

(Amendments to Standing Committee amendments, AM0795)

- 1 1. Strike section 1 and insert the following new
- 2 section:
- 3 "Sec. 2. It is the intent of the Legislature to
- 4 appropriate five hundred thousand dollars from the General Fund for
- 5 FY2005-06 and five hundred thousand dollars from the General Fund
- 6 for FY2006-07, for compulsive gamblers assistance programs, which
- 7 appropriations shall be in addition to any funds appropriated from
- 8 the Charitable Gaming Operations Fund or the State Lottery
- 9 Operation Trust Fund to the Compulsive Gamblers Assistance Fund for
- 10 such fiscal years for such programs."
- 11 2. Amend the repealer and renumber the remaining
- 12 sections accordingly.

## SELECT FILE

**LEGISLATIVE BILL 673.** The Chambers pending amendment, FA285, found in this day's Journal, to the Loudon pending amendment, was renewed.

Senator Chambers withdrew his amendment.

Senator Chambers offered the following amendment to the Loudon pending amendment:

FA286

Amend AM1587

Strike Section 2.

**SENATOR BAKER PRESIDING**

**SENATOR CUDABACK PRESIDING**

Senator Chambers withdrew his amendment.

Senator Chambers offered the following amendment to the Louden pending amendment:

FA287

Amend AM1587

Strike Section 3.

Senator Chambers withdrew his amendment.

Senator Chambers offered the following amendment to the Louden pending amendment:

FA288

Amend AM1587

Strike Section 4.

**SPEAKER BRASHEAR PRESIDING**

Senator Louden offered the following motion:

Invoke cloture on LB 673, pursuant to Rule 7, Section 10.

Senator Louden moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Louden requested a roll call vote, in reverse order, on his motion to invoke cloture.

Voting in the affirmative, 32:

Aguilar	Cornett	Foley	Kremer	Smith
Baker	Cudaback	Friend	Langemeier	Stuhr
Beutler	Cunningham	Heidemann	Louden	Stuthman
Burling	Engel	Hudkins	McDonald	Wehrbein
Byars	Erdman	Janssen	Raikes	
Combs	Fischer	Jensen	Redfield	
Connealy	Flood	Kopplin	Schrock	

Voting in the negative, 3:

Chambers	Howard	Schimek
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Present and not voting, 7:

Bourne	Brown	Pahls	Synowiecki
Brashear	Johnson	Pederson, D.	

Excused and not voting, 7:

Kruse	Mines	Preister	Thompson
Landis	Pedersen, Dw.	Price	

The Louden motion to invoke cloture failed with 32 ayes, 3 nays, 7 present and not voting, and 7 excused and not voting.

### AMENDMENTS - Print in Journal

Senator Byars filed the following amendment to LB 114:  
AM1480

- 1 1. On page 3, line 14, after "of" insert "(1)"; and in
- 2 line 16 before the period insert "and (2) a telephone number or
- 3 other contact information to assist the parent or guardian in
- 4 receiving information regarding free or reduced-cost visual
- 5 evaluations for low-income families who qualify".

Senator Redfield filed the following amendment to LB 40:  
AM1666

(Amendments to AM1227)

- 1 1. Insert the following new section:
- 2 "Sec. 3. Section 58-708, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 58-708. (1) During each calendar year in which funds are
- 5 available from the Affordable Housing Trust Fund for use by the
- 6 Department of Economic Development, the department shall allocate a
- 7 specific amount of funds, not less than a per capita share of the
- 8 qualified allocation plan fund amount, to each community with a
- 9 population of fifty thousand or more inhabitants according to the
- 10 most recent federal decennial census. Entitlement area funds
- 11 allocated under this section that are not awarded to an eligible
- 12 project from within the entitlement area within one year shall be
- 13 made available for distribution to eligible projects elsewhere in
- 14 the state. The department shall announce a grant and loan
- 15 application period of at least ninety days duration for all
- 16 nonentitlement areas. In selecting projects to receive trust fund
- 17 assistance, the department shall develop a qualified allocation
- 18 plan and give first priority to financially viable projects that
- 19 serve the lowest income occupants for the longest period of time.
- 20 The qualified allocation plan shall:
- 21 (a) Set forth selection criteria to be used to determine
- 22 housing priorities of the housing trust fund which are appropriate
- 23 to local conditions, including the community's immediate need for
- 1 affordable housing, proposed increases in home ownership, private
- 2 dollars leveraged, level of local government support and

- 3 participation, and repayment, in part or in whole, of financial  
4 assistance awarded by the fund; and  
5 (b) Give first priority in allocating trust fund  
6 assistance among selected projects to those projects which serve  
7 the lowest income occupant and are obligated to serve qualified  
8 occupants for the longest period of time.  
9 (2) The department shall fund in order of priority as  
10 many applications as will utilize available funds less actual  
11 administrative costs of the department in administering the  
12 program. In administering the program the department may contract  
13 for services or directly provide funds to other governmental  
14 entities or instrumentalities."  
15 2. On page 10, line 5, after the second comma insert  
16 "58-708,".  
17 3. Renumber the remaining sections accordingly.

Senator Raikes filed the following amendment to LB 126:  
(Amendment, AM1672, is printed separately and available in the Bill Room,  
Room 1104.)

### **VISITORS**

Visitors to the Chamber were over 70 members of the Norfolk area Chamber of Commerce; 48 fourth-grade students and teacher from Meadows Elementary School, Omaha; 42 fourth-grade students and teachers from Jefferson Elementary School, Grand Island; and Senator Cunningham's son, John Cunningham, from Chicago.

The Doctor of the Day was Dr. David Minnick from Broken Bow.

### **MOTION - Adjournment**

Senator Fischer moved to adjourn. The motion prevailed with 16 ayes, 15 nays, 12 present and not voting, and 6 excused and not voting, and at 7:22 p.m., the Legislature adjourned until 9:00 a.m., Friday, May 20, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**EIGHTY-SECOND DAY - MAY 20, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****EIGHTY-SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, May 20, 2005

**PRAYER**

The prayer was offered by Senator Stuhr.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Kruse who was excused; and Senators Byars, Heidemann, Landis, McDonald, Dw. Pedersen, D. Pederson, Raikes, Schrock, Synowiecki, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

Page 1655, strike lines 29 and 30 and insert:

"Senator Fischer reoffered her amendment, AM0100, found on page 511 and considered on page 519."

The Journal for the eighty-first day was approved as corrected.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of May 19, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Bunger, Ken  
Omaha Royals Limited Partnership

Licht, Andrew W.  
Anderson Management Services, Inc.

O'Hara, Lindsay & Associates, Inc.  
W. Scott Davis, Attorney at Law

Pappas, James E.  
Access Elevator, Inc.

### **MOTIONS - Approve Appointments**

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1616:

Commission for the Deaf and Hard of Hearing

Mary Ann Burke  
Michael J. Carruthers  
Daniel R. Darnall  
Luana Duennerman

Voting in the affirmative, 28:

Aguilar	Cudaback	Friend	Louden	Schimek
Baker	Cunningham	Howard	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Burling	Erdman	Johnson	Preister	Stuthman
Combs	Fischer	Kremer	Price	
Connealy	Flood	Langemeier	Redfield	

Voting in the negative, 0.

Present and not voting, 9:

Beutler	Chambers	Foley	Janssen	Wehrbein
Brashear	Cornett	Hudkins	Kopplin	

Excused and not voting, 12:

Brown	Kruse	Pedersen, Dw.	Schrock
Byars	Landis	Pederson, D.	Synowiecki
Heidemann	McDonald	Raikes	Thompson

The appointments were confirmed with 28 ayes, 0 nays, 9 present and not voting, and 12 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1616:

Rural Health Advisory Commission  
Steven Dokken

Voting in the affirmative, 32:

Aguilar	Cornett	Friend	Louden	Schimek
Baker	Cudaback	Howard	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuthman
Brown	Engel	Jensen	Pahls	Wehrbein
Burling	Erdman	Johnson	Pedersen, Dw.	
Combs	Fischer	Kremer	Preister	
Connealy	Flood	Langemeier	Price	

Voting in the negative, 0.

Present and not voting, 8:

Beutler	Chambers	Hudkins	Redfield
Brashear	Foley	Kopplin	Stuhr

Excused and not voting, 9:

Byars	Kruse	Pederson, D.	Schrock	Thompson
Heidemann	Landis	Raikes	Synowiecki	

The appointment was confirmed with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1617:

State Board of Health  
James C. Schiefen

Voting in the affirmative, 28:

Aguilar	Connealy	Howard	Langemeier	Price
Baker	Cornett	Janssen	Louden	Redfield
Bourne	Cudaback	Jensen	McDonald	Schimek
Brown	Engel	Johnson	Pahls	Stuthman
Burling	Erdman	Kopplin	Pedersen, Dw.	
Combs	Fischer	Kremer	Preister	

Voting in the negative, 0.

Present and not voting, 12:

Beutler	Cunningham	Friend	Smith
Brashear	Flood	Hudkins	Stuhr
Chambers	Foley	Mines	Wehrbein

Excused and not voting, 9:

Byars	Kruse	Pederson, D.	Schrock	Thompson
Heidemann	Landis	Raikes	Synowiecki	

The appointment was confirmed with 28 ayes, 0 nays, 12 present and not voting, and 9 excused and not voting.

Senator Jensen moved the adoption of the Health and Human Services Committee report for the confirmation of the following appointment(s) found on page 1617:

Foster Care Review Board  
Joellen McGinn

Voting in the affirmative, 29:

Aguilar	Connealy	Friend	Kremer	Preister
Baker	Cornett	Howard	Landis	Price
Bourne	Cudaback	Janssen	Louden	Redfield
Brashear	Engel	Jensen	Mines	Schimek
Burling	Erdman	Johnson	Pahls	Stuthman
Combs	Fischer	Kopplin	Pedersen, Dw.	

Voting in the negative, 0.

Present and not voting, 12:

Beutler	Cunningham	Hudkins	Smith
Brown	Flood	Langemeier	Stuhr
Chambers	Foley	McDonald	Wehrbein

Excused and not voting, 8:

Byars	Kruse	Raikes	Synowiecki
Heidemann	Pederson, D.	Schrock	Thompson

The appointment was confirmed with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

## GENERAL FILE

**LEGISLATIVE BILL 348A.** Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

**LEGISLATIVE BILL 478A.** Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 9 present and not voting, and 8 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 117.** Senator Beutler renewed his pending amendment, AM1655, found on page 1672.

Senator Beutler moved for a call of the house. The motion prevailed with 20 ayes, 2 nays, and 27 not voting.

Senator Beutler requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Beutler	Flood	Johnson	Mines	Stuthman
Brown	Howard	Kremer	Pahls	Synowiecki
Burling	Hudkins	Landis	Price	
Cudaback	Jensen	Louden	Stuhr	

Voting in the negative, 16:

Aguilar	Cornett	Janssen	Redfield
Bourne	Cunningham	Kopplin	Schimek
Chambers	Erdman	Langemeier	Smith
Connealy	Foley	Pedersen, Dw.	Wehrbein

Present and not voting, 12:

Baker	Combs	Friend	Preister
Brashear	Engel	Heidemann	Raikes
Byars	Fischer	McDonald	Schrock

Excused and not voting, 3:

Kruse                      Pederson, D.    Thompson

The Beutler amendment lost with 18 ayes, 16 nays, 12 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Aguilar asked unanimous consent to withdraw his pending amendment, AM1456, found on page 1388, and replace it with the Bourne-Aguilar-Redfield substitute amendment, AM1673. No objections. So ordered.  
AM1673

(Amendments to E & R amendments, AM7091)

- 1 1. On page 17, line 23, before the period insert "1
- 2 except that this requirement does not apply to liquid pediatric
- 3 formulations. For the purposes of this subdivision, liquid

4 pediatric formulation means a liquid formulation with  
 5 pseudoephedrine doses of fifteen milligrams or less that is  
 6 manufactured and marketed for children twelve years of age or  
 7 younger. If it is documented by a law enforcement agency to the  
 8 Nebraska State Patrol that a liquid pediatric formulation has been  
 9 found at a methamphetamine manufacturing site, the patrol shall  
 10 present the documentation to the chief medical officer, as  
 11 described in section 81-3201, who shall issue an order removing the  
 12 exemption".

The Bourne et al. amendment was adopted with 34 ayes, 1 nay, 10 present and not voting, and 4 excused and not voting.

Senator Brown renewed her pending amendment, AM1467, found on page 1673.

Senator Brown withdrew her amendment.

Senator Dw. Pedersen asked unanimous consent to withdraw his pending amendment, AM1076, found on page 1675, and replace it with his substitute pending amendment, AM1668, found on page 1676. No objections. So ordered.

Senator Dw. Pedersen withdrew his amendment.

Pending.

## ANNOUNCEMENT

The Chair announced today is Senator Kopplin's birthday.

## SELECT FILE

**LEGISLATIVE BILL 117.** Senator Synowiecki renewed his pending amendment, AM1663, found on page 1675.

Senator Synowiecki moved for a call of the house. The motion prevailed with 23 ayes, 2 nays, and 24 not voting.

Senator Bourne requested a roll call vote on the Synowiecki amendment.

Voting in the affirmative, 15:

Beutler	Foley	Mines	Price	Synowiecki
Engel	Howard	Pedersen, Dw.	Schimek	Thompson
Flood	Jensen	Preister	Stuhr	Wehrbein

Voting in the negative, 13:

Aguilar	Brown	Friend	Langemeier	Stuthman
Bourne	Byars	Heidemann	Schrock	
Brashear	Erdman	Landis	Smith	

Present and not voting, 18:

Baker	Cornett	Hudkins	Kremer	Raikes
Burling	Cudaback	Janssen	McDonald	Redfield
Combs	Cunningham	Johnson	Pahls	
Connealy	Fischer	Kopplin	Pederson, D.	

Absent and not voting, 1:

Chambers

Excused and not voting, 2:

Kruse                Louden

The Synowiecki amendment lost with 15 ayes, 13 nays, 18 present and not voting, 1 absent and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Redfield withdrew her pending amendment, AM1606, found on page 1676.

Advanced to E & R for engrossment.

## GENERAL FILE

**LEGISLATIVE BILL 146.** Title read. Considered.

The Standing Committee amendment, AM1235, found on page 1274, was considered.

Senator Price renewed her pending amendment, AM1628, found on page 1644, to the Standing Committee amendment.

The Price amendment was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 28 ayes, 0 nays, 19 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 146A.** Title read. Considered.

Advanced to E & R for review with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

### **SELECT COMMITTEE REPORTS** **Enrollment and Review**

**LEGISLATIVE BILL 348.** Placed on Select File as amended.

(E & R amendment, AM7103, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 348A.** Placed on Select File.

**LEGISLATIVE BILL 478A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

### **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 228.** Introduced by Raikes, 25.

WHEREAS, the Lincoln East High School boys' soccer team is the champion of the 2005 Class A Boys' State Soccer Tournament; and

WHEREAS, the 2-1 victory over Omaha Creighton Prep in the championship game capped a 15-2 season and captured the Spartans' second state title in the last four years; and

WHEREAS, throughout the year, the coaches and players of the Lincoln East Spartan boys' soccer team have exemplified sportsmanship, teamwork, diligence, and determination; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Lincoln East High School boys' soccer team be congratulated for its efforts this season and in the Boys' State Soccer Tournament.

2. That a copy of this resolution be sent to Head Coach Jeff Hoham.

Laid over.

**LEGISLATIVE RESOLUTION 229.** Introduced by Raikes, 25; Price, 26.

WHEREAS, the Lincoln Pius X High School girls' soccer team is the champion of the 2005 Class B Girls' State Soccer Tournament; and

WHEREAS, the Lady Thunderbolts 5-0 victory over Omaha Skutt in the championship game capped a 16-1 season and 37-1 record over the past two years; and

WHEREAS, the Pius X High School girls' soccer team won its second consecutive state title and has appeared in the Class B state championship game each of the past 3 seasons; and

WHEREAS, the Pius X Lady Thunderbolts have exemplified teamwork,

sportswomanship, discipline, and determination; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Pius X High School girls' soccer team be congratulated for its effort this season and in the Girls' State Soccer Tournament.

2. That a copy of this resolution be sent to Head Coach Jeremy Ekeler.

Laid over.

**LEGISLATIVE RESOLUTION 230.** Introduced by Synowiecki, 7.

WHEREAS, the Republic of Poland is a free, democratic, and independent nation; and

WHEREAS, in 1999, the United States and the Republic of Poland became formal allies when Poland was granted membership in the North Atlantic Treaty Organization; and

WHEREAS, the President of the United States and other high-ranking officials have described Poland as "one of our closest friends"; and

WHEREAS, on April 15, 1991, the Republic of Poland unilaterally repealed the visa obligation to United States citizens traveling to Poland; and

WHEREAS, the United States Department of State's Visa Waiver Program currently allows approximately twenty-three million citizens from twenty-seven countries to travel to the United States for tourism or business for up to ninety days without having first to obtain visas for entry; and

WHEREAS, the countries that currently participate in the Visa Waiver Program include Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom; and

WHEREAS, it is appropriate that the Republic of Poland be made eligible for the United States Department of State's Visa Waiver Program.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Legislature respectfully urges the President of the United States and the Congress of the United States to make the Republic of Poland eligible for the United States Department of State's Visa Waiver Program.

2. That a copy of this resolution, signed by the Speaker of the Legislature, shall be transmitted to the President of the United States, the presiding officers of the United States Senate and the House of Representatives, all members of the Nebraska Congressional delegation, and Przemyslaw Grundzinski, the Ambassador of the Republic of Poland to the United States.

Laid over.

**LEGISLATIVE RESOLUTION 231.** Introduced by Raikes, 25.

WHEREAS, the Lincoln East High School girls' soccer team is the champion of the 2005 Class A Girls' State Soccer Tournament; and

WHEREAS, the 1-0 victory over Columbus in the championship game capped a 14-3 season and captured the Lady Spartans' second consecutive state title; and

WHEREAS, throughout the year, the Lincoln East Lady Spartans have exemplified sportswomanship, teamwork, diligence, and determination; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Lincoln East High School girls' soccer team be congratulated for its efforts this season and in the Girls' State Soccer Tournament.

2. That a copy of this resolution be sent to Head Coach Chuck Morgan.

Laid over.

**AMENDMENT - Print in Journal**

Senator Redfield filed the following amendment to LB 500:  
AM1677

- 1 1. Strike original section 13 and all amendments
- 2 thereto.
- 3 2. On page 3, line 15, strike the last "and" and insert
- 4 ", but not for which"; and in line 16 after "domain" insert "may
- 5 be".
- 6 3. On page 4, line 15, strike "payment of relocation
- 7 assistance; (d)" and renumber the remaining subdivisions.
- 8 4. On page 12, strike line 28.
- 9 5. On page 13, strike line 1 through "(i)" in line 2 and
- 10 insert "and
- 11 (h)".
- 12 6. On page 25, line 15, strike "eminent domain," and
- 13 after "otherwise" insert ", but not by eminent domain,"; and strike
- 14 beginning with the comma in line 18 through "individuals" in line
- 15 19.
- 16 7. In the Standing Committee amendments, AM0773, strike
- 17 section 30 and amendment 19.
- 18 8. Renumber the remaining sections and correct internal
- 19 references accordingly.

**SELECT FILE**

**LEGISLATIVE BILL 126.** Senator Loudon renewed the Loudon-Fischer pending amendment, AM1217, found on page 1655 and considered on page 1662.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 5 nays, and 19 not voting.

The Louden-Fischer amendment lost with 13 ayes, 26 nays, 9 present and not voting, and 1 excused and not voting.

Senator Raikes asked unanimous consent to withdraw his pending amendment, AM0363, found on page 541, and replace it with his substitute pending amendment, AM1672, printed separately and referred to on page 1679. No objections. So ordered.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 5 nays, and 16 not voting.

Senator Smith requested a record vote on the Raikes amendment.

Voting in the affirmative, 35:

Aguilar	Byars	Janssen	Mines	Redfield
Baker	Connealy	Johnson	Pahls	Schimek
Beutler	Cunningham	Kopplin	Pedersen, Dw.	Schrock
Bourne	Engel	Kremer	Pederson, D.	Stuhr
Brashear	Foley	Landis	Preister	Synowiecki
Brown	Howard	Louden	Price	Thompson
Burling	Hudkins	McDonald	Raikes	Wehrbein

Voting in the negative, 6:

Erdman	Flood	Langemeier
Fischer	Heidemann	Smith

Present and not voting, 6:

Chambers	Cudaback	Jensen
Combs	Friend	Stuthman

Excused and not voting, 2:

Cornett	Kruse
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The Raikes amendment was adopted with 35 ayes, 6 nays, 6 present and not voting, and 2 excused and not voting.

Senator Louden reoffered his amendment, AM0075, found on page 502 and considered on page 519.

Senator Louden withdrew his amendment.

Senator Brown moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 5 nays, and 17 not voting.

Senator Smith requested a record vote on the advancement of the bill.

Voting in the affirmative, 29:

Aguilar	Byars	Janssen	Pahls	Schimek
Baker	Cunningham	Jensen	Pedersen, Dw.	Stuhr
Beutler	Engel	Johnson	Preister	Synowiecki
Brashear	Foley	Kremer	Price	Thompson
Brown	Friend	Landis	Raikes	Wehrbein
Burling	Howard	Mines	Redfield	

Voting in the negative, 12:

Connealy	Fischer	Hudkins	McDonald
Cudaback	Flood	Langemeier	Smith
Erdman	Heidemann	Louden	Stuthman

Present and not voting, 5:

Bourne	Chambers	Combs	Kopplin	Schrock
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Excused and not voting, 3:

Cornett	Kruse	Pederson, D.
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Advanced to E & R for engrossment with 29 ayes, 12 nays, 5 present and not voting, and 3 excused and not voting.

### **AMENDMENTS - Print in Journal**

Senator Stuhr filed the following amendment to LR 12CA:  
AM1648

- 1 1. Strike beginning with page 1, line 7, through page 2,
- 2 line 14, and insert the following:
- 3 "To amend Article III, sections 7 and 19:
- 4 III-7 At the general election to be held in November
- 5 1964, one-half the members of the Legislature, or as nearly thereto
- 6 as may be practicable, shall be elected for a term of four years
- 7 and the remainder for a term of two years, and thereafter all
- 8 members shall be elected for a term of four years, with the manner
- 9 of such election to be determined by the Legislature. When the
- 10 Legislature is redistricted, the members elected prior to the
- 11 redistricting shall continue in office, and the law providing for

12 such redistricting shall where necessary specify the newly  
13 established district which they shall represent for the balance of  
14 their term. Each member shall be nominated and elected in a  
15 nonpartisan manner and without any indication on the ballot that he  
16 or she is affiliated with or endorsed by any political party or  
17 organization. ~~Each~~ Until January 3, 2007, each member of the  
18 Legislature shall receive a salary of not to exceed one thousand  
19 dollars per month during the term of his or her office. Beginning  
20 January 3, 2007, each member of the Legislature shall receive an  
21 annual salary during his or her term of office equal to eighteen  
22 thousand dollars in 2007 and increased annually thereafter by the  
23 change in the prior calendar year in a consumer price index  
24 designated by law, not to exceed four percent. In addition to his  
1 or her salary, each member shall receive an amount equal to his or  
2 her actual expenses in traveling by the most usual route once to  
3 and returning from each regular or special session of the  
4 Legislature. Members of the Legislature shall receive no pay nor  
5 perquisites other than his or her salary and expenses, and  
6 employees of the Legislature shall receive no compensation other  
7 than their salary or per diem.

8 III-19 The Legislature shall never grant any extra  
9 compensation to any public officer, agent, or servant after the  
10 services have been rendered nor to any contractor after the  
11 contract has been entered into, except that retirement benefits of  
12 retired public officers and employees may be adjusted to reflect  
13 changes in the cost of living and wage levels that have occurred  
14 subsequent to the date of retirement.  
15 Except as otherwise provided in section 7 of this  
16 Article, the ~~The~~ compensation of any public officer, including any  
17 officer whose compensation is fixed by the Legislature, shall not  
18 be increased or diminished during his or her term of office, except  
19 that when there are members elected or appointed to ~~the Legislature~~  
20 ~~or~~ the judiciary, or officers elected or appointed to a board or  
21 commission having more than one member, and the terms of such  
22 members commence and end at different times, the compensation of  
23 all members ~~of the Legislature,~~ of the judiciary, or of such board  
24 or commission may be increased or diminished at the beginning of  
25 the full term of any member thereof.

26 Nothing in this section shall prevent local governing  
27 bodies from reviewing and adjusting vested pension benefits  
1 periodically as prescribed by ordinance.

2 The surviving spouse of any retired public officer,  
3 agent, or servant, who has retired under a pension plan or system,  
4 shall be considered as having pensionable status and shall be  
5 entitled to the same benefits which may, at any time, be provided  
6 for or available to spouses of other public officers, agents, or  
7 servants who have retired under such pension plan or system at a  
8 later date, and such benefits shall not be prohibited by the  
9 restrictions of this section or of Article XIII, section 3 of the

10 Constitution of Nebraska."

11 2. On page 2, strike beginning with "change" in line 18  
12 through line 20 and insert "provide for an annual salary for  
13 members of the Legislature equal to eighteen thousand dollars in  
14 2007 and increased annually thereafter by the change in the prior  
15 calendar year in a consumer price index designated by law, not to  
16 exceed four percent."

Senator Landis filed the following amendment to LB 13:  
(Amendment, AM1671, is printed separately and available in the Bill Room,  
Room 1104.)

Senator Landis filed the following amendment to LB 500:  
AM1679

- 1 1. Strike section 1 and renumber the remaining sections
- 2 accordingly.

### **VISITORS**

Visitors to the Chamber were Dr. James White from Omaha; 104 fourth-grade students and teacher from Rohwer Elementary School, Omaha; Patrick, Michaela, and Paige Leahy from Omaha; third-grade students from Pershing Elementary School, Lincoln; and 55 fourth-grade students and teacher from Parkview Heights School, La Vista.

The Doctor of the Day was Dr. Tamara Johnson from North Platte.

### **ADJOURNMENT**

At 12:51 p.m., on a motion by Senator Byars, the Legislature adjourned until 10:00 a.m., Monday, May 23, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**EIGHTY-THIRD DAY - MAY 23, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****EIGHTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, May 23, 2005

**PRAYER**

The prayer was offered by Senator Kopplin.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Beutler, Brown, Combs, Cornett, Landis, Mines, Schrock, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-second day was approved.

**SELECT COMMITTEE REPORTS****Enrollment and Review**

**LEGISLATIVE BILL 146.** Placed on Select File as amended.  
E & R amendment to LB 146:  
AM7104

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Sections 1 to 9 of this act shall be known
- 4 and may be cited as the Nursing Faculty Student Loan Act.
- 5 Sec. 2. For purposes of the Nursing Faculty Student Loan
- 6 Act:
- 7 (1) Approved nursing program means a program offered by a
- 8 public or private postsecondary educational institution in Nebraska
- 9 (a) which consists of courses of instruction in regularly scheduled
- 10 classes leading to a master of science degree, a bachelor of
- 11 science degree, an associate degree, or a diploma in nursing or (b)
- 12 for the preparation for licensure as a licensed practical nurse
- 13 available to regularly enrolled undergraduate or graduate students;
- 14 (2) Department means the Department of Health and Human

15 Services Regulation and Licensure; and

16 (3) Masters or doctoral accredited nursing program means  
17 a postgraduate nursing education program that has been accredited  
18 by a nationally recognized accrediting agency and offered by a  
19 public or private postsecondary educational institution in  
20 Nebraska.

21 Sec. 3. To qualify for a loan under the Nursing Faculty  
22 Student Loan Act, a student shall (1) be a resident of Nebraska,  
23 (2) be enrolled in a masters or doctoral accredited nursing  
24 program, and (3) agree in writing to engage in nursing instruction  
1 in an approved nursing program.

2 Sec. 4. Loans may be made by the department under the  
3 Nursing Faculty Student Loan Act for educational expenses of a  
4 qualified student who agrees in writing to engage in nursing  
5 instruction in an approved nursing program for two years of  
6 full-time nursing instruction for each year a loan is received,  
7 with a maximum of six years of nursing instruction in Nebraska in  
8 return for three years of loans under the act. Loans shall be  
9 subject to the following conditions:

10 (1) Loans shall be used only for educational expenses for  
11 a masters or doctoral accredited nursing program. The use of loan  
12 funds by the recipient is subject to review by the department;

13 (2) Each loan shall be for one academic year;

14 (3) A loan recipient shall not receive more than five  
15 thousand dollars per academic year and shall not receive more than  
16 fifteen thousand dollars under the act;

17 (4) Loans shall be forgiven at the rate of five thousand  
18 dollars loaned per two years of full-time nursing instruction in  
19 Nebraska;

20 (5) If a loan recipient discontinues enrollment in the  
21 masters or doctoral accredited nursing program before completing  
22 the program, he or she shall repay to the department one hundred  
23 percent of the outstanding loan principal with simple interest at a  
24 rate of one point below the prime interest rate as of the date the  
25 loan recipient signed the contract. Interest shall accrue as of  
26 the date the loan recipient signed the contract. Such repayment  
27 shall commence within six months after the date he or she  
1 discontinues enrollment and shall be completed within the number of  
2 years for which loans were awarded;

3 (6) If, after the loan recipient completes the masters or  
4 doctoral accredited nursing program and before all of his or her  
5 loans are forgiven under the act, he or she fails to begin or  
6 ceases full-time nursing instruction pursuant to the loan  
7 agreement, he or she shall repay to the department one hundred  
8 twenty-five percent of the outstanding loan principal with simple  
9 interest at a rate of one point below the prime interest rate as of  
10 the date the loan recipient signed the contract. Interest shall  
11 accrue as of the date the loan recipient signed the contract. Such  
12 repayment shall commence within six months after the date of

13 completion of the program or the date the loan recipient ceases  
14 full-time nursing instruction, whichever is later, and shall be  
15 completed within the number of years for which loans were awarded;  
16 and

17 (7) Institutions which offer a masters or doctoral  
18 accredited nursing program may act as agents of the department for  
19 the distribution of loans to eligible students.

20 Sec. 5. The Nursing Faculty Student Loan Cash Fund is  
21 created. The fund shall consist of grants, private donations, fees  
22 collected pursuant to section 6 of this act, and loan repayments  
23 under the Nursing Faculty Student Loan Act remitted by the  
24 department to the State Treasurer for credit to the fund. The fund  
25 shall be used to administer the act and for loans to qualified  
26 students pursuant to the act. The act shall be carried out with no  
27 appropriations from the General Fund. Any money in the Nursing

1 Faculty Student Loan Cash Fund available for investment shall be  
2 invested by the state investment officer pursuant to the Nebraska  
3 Capital Expansion Act and the Nebraska State Funds Investment Act.

4 Sec. 6. Beginning January 1, 2006, through December 31,  
5 2007, the Department of Health and Human Services Regulation and  
6 Licensure shall charge a fee of one dollar, in addition to any  
7 other fee, for each license renewal for a registered nurse or  
8 licensed practical nurse pursuant to section 71-1,132.20. Such fee  
9 shall be collected at the time of renewal and remitted to the State  
10 Treasurer for credit to the Nursing Faculty Student Loan Cash Fund.

11 Sec. 7. The department has the administrative  
12 responsibility to track loan recipients and to develop repayment  
13 tracking and collection mechanisms. The department may contract  
14 for such services. When a loan has been forgiven pursuant to  
15 section 4 of this act, the amount forgiven may be taxable income to  
16 the loan recipient and the department shall provide notification of  
17 the amount forgiven to the loan recipient, the Department of  
18 Revenue, and the Internal Revenue Service if required by the  
19 Internal Revenue Code as defined in section 49-801.01.

20 Sec. 8. The department shall annually provide a report  
21 to the Governor and the Clerk of the Legislature on the status of  
22 the program, the status of the loan recipients, and the impact of  
23 the program on the number of nursing faculty in Nebraska. Any  
24 report which includes information about loan recipients shall  
25 exclude confidential information or any other information which  
26 specifically identifies a loan recipient.

27 Sec. 9. The department, in consultation with approved  
1 nursing programs in Nebraska, shall adopt and promulgate rules and  
2 regulations to carry out the Nursing Faculty Student Loan Act. The  
3 department may adopt rules that require the maximum forgiveness  
4 amount of fifteen thousand dollars pursuant to subdivision (3) of  
5 section 4 of this act be present in the Nursing Faculty Student  
6 Loan Cash Fund before each qualified student is chosen.

7 Sec. 10. Section 71-163, Reissue Revised Statutes of

8 Nebraska, is amended to read:

9 71-163. (1) The Professional and Occupational  
10 Credentialing Cash Fund is created. Except as provided in section  
11 71-172.02 and section 6 of this act, the fund shall consist of all  
12 fees, gifts, grants, and other money, excluding fines and civil  
13 penalties, received or collected by the department under sections  
14 71-162 to 71-162.05.

15 (2) The department shall use the fund for the  
16 administration and enforcement of such laws regulating the  
17 individuals and entities listed in section 71-162 except for a  
18 percentage of the fees credited to the Nebraska Regulation of  
19 Health Professions Fund pursuant to section 71-6228.

20 (3) Any money in the Professional and Occupational  
21 Credentialing Cash Fund available for investment shall be invested  
22 by the state investment officer pursuant to the Nebraska Capital  
23 Expansion Act and the Nebraska State Funds Investment Act.

24 ~~(4) Any money in the separate fund authorized in section~~  
25 ~~71-162 as it existed prior to July 1, 2004, and any money in the~~  
26 ~~Acupuncturist Fund, the Athletic Trainer Fund, the Board of~~  
27 ~~Registration for Environmental Health Specialists Fund, the~~  
1 ~~Cosmetology Cash Fund, the Hearing Aid Fund, the Massage Therapy~~  
2 ~~Fund, the Medical Nutrition Therapy Fund, the Mental Health~~  
3 ~~Practice Fund, the Nebraska Pharmaceutical Fund, the Nurses'~~  
4 ~~Licensing Cash Fund, the Nursing Home Administration Fund, the~~  
5 ~~Occupational Therapy Licensing Cash Fund, the Psychologists~~  
6 ~~Licensing Fund, and the Respiratory Care Practitioners Fund, on~~  
7 ~~July 1, 2004, shall be transferred to the Professional and~~  
8 ~~Occupational Credentialing Cash Fund.~~

9 Sec. 11. Original section 71-163, Reissue Revised  
10 Statutes of Nebraska, is repealed."

11 2. On page 1, line 1, after the semicolon insert "to  
12 amend section 71-163, Reissue Revised Statutes of Nebraska;" and  
13 in line 2 after "Act" insert "; to delete obsolete provisions; to  
14 harmonize provisions; and to repeal the original section".

**LEGISLATIVE BILL 146A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

### **SPECIAL COMMITTEE REPORT** **Executive Board**

**LEGISLATIVE RESOLUTION 98.** Reported to the Legislature for further consideration.

(Signed) L. Patrick Engel, Chairperson

**NOTICE OF COMMITTEE HEARING**  
**Education**  
 Room 1525

Tuesday, May 31, 2005

9:30 a.m.

Timothy D. Hodges - Coordinating Commission for Postsecondary  
 Education

(Signed) Ron Raikes, Chairperson

**MOTION - Approve Appointment**

Senator Janssen moved the adoption of the General Affairs Committee report for the confirmation of the following appointment(s) found on page 1528:

Nebraska Liquor Control Commission  
 Robert E. Logsdon

Voting in the affirmative, 32:

Aguilar	Engel	Howard	Louden	Schimek
Baker	Erdman	Hudkins	McDonald	Stuhr
Burling	Fischer	Janssen	Pahls	Stuthman
Byars	Flood	Jensen	Pedersen, Dw.	Wehrbein
Chambers	Foley	Johnson	Pederson, D.	
Cudaback	Friend	Kopplin	Raikes	
Cunningham	Heidemann	Kremer	Redfield	

Voting in the negative, 0.

Present and not voting, 9:

Bourne	Connealy	Langemeier	Price	Synowiecki
Brashear	Kruse	Preister	Smith	

Excused and not voting, 8:

Beutler	Combs	Landis	Schrock
Brown	Cornett	Mines	Thompson

The appointment was confirmed with 32 ayes, 0 nays, 9 present and not voting, and 8 excused and not voting.

**GENERAL FILE**

**LEGISLATIVE BILL 332.** Title read. Considered.

The Standing Committee amendment, AM0795, found on page 838, was considered.

Senator McDonald withdrew her pending amendments, AM1338, AM1630, and AM1651, found on pages 1360, 1569, and 1644.

Senator McDonald renewed her pending amendment, AM1656, found on page 1676, to the Standing Committee amendment.

Senator McDonald withdrew her amendment.

Senator Wehrbein offered the following amendment to the Standing Committee amendment:

FA296

(Amendments to Standing Committee amendments, AM0795)

- 1 1. Strike section 1 and insert the following new
- 2 section:
- 3 "Sec. 2. It is the intent of the Legislature to
- 4 appropriate five hundred thousand dollars from the Health Care Cash Fund for
- 5 FY2005-06 for compulsive gamblers assistance programs, which
- 7 appropriations shall be in addition to any funds appropriated from
- 8 the Charitable Gaming Operations Fund or the State Lottery
- 9 Operation Trust Fund to the Compulsive Gamblers Assistance Fund for
- 10 such fiscal years for such programs."
- 11 2. Amend the repealer and renumber the remaining
- 12 sections accordingly.

The Wehrbein amendment was adopted with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 32 ayes, 0 nays, 16 present and not voting, and 1 excused and not voting.

Advanced to E & R for review with 38 ayes, 0 nays, 10 present and not voting, and 1 excused and not voting.

**LEGISLATIVE BILL 332A.** Title read. Considered.

Senator McDonald offered the following amendment:  
AM1689

- 1 1. Strike sections 1 and 2 and insert the following new
- 2 sections:
- 3 "Section 1. There is hereby appropriated \$450,000 from
- 4 the Nebraska Health Care Cash Fund for FY2005-06 to the Department
- 5 of Health and Human Services Finance and Support, for Program 38,
- 6 to aid in carrying out the provisions of Legislative Bill 332,
- 7 Ninety-ninth Legislature, First Session, 2005.
- 8 No expenditures for permanent and temporary salaries and
- 9 per diems for state employees shall be made from funds appropriated
- 10 in this section.
- 11 Sec. 2. There is hereby appropriated \$50,000 from the

12 Nebraska Health Care Cash Fund for FY2005-06 to the Department of  
13 Health and Human Services, for Program 33, to aid in carrying out  
14 the provisions of Legislative Bill 332, Ninety-ninth Legislature,  
15 First Session, 2005.

16 Total expenditures for permanent and temporary salaries  
17 and per diems from funds appropriated in this section shall not  
18 exceed \$45,000 for FY2005-06."

The McDonald amendment was adopted with 38 ayes, 0 nays, 10 present  
and not voting, and 1 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 12 present and not  
voting, and 1 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 348.** E & R amendment, AM7103, printed  
separately and referred to on page 1688, was adopted.

Senator Synowiecki offered the following amendment:  
AM1675

(Amendments to E & R amendments, AM7103)

- 1 1. On page 1, lines 12 through 17, strike the new  
2 matter.

### SENATOR SCHIMEK PRESIDING

Pending.

### BILL ON FIRST READING

The following bill was read for the first time by title:

**LEGISLATIVE BILL 126A.** Introduced by Raikes, 25.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to  
aid in carrying out the provisions of Legislative Bill 126, Ninety-ninth  
Legislature, First Session, 2005.

### RESOLUTION

**LEGISLATIVE RESOLUTION 232.** Introduced by Flood, 19.

WHEREAS, August Hintz married Elsie Klawonn on June 2, 1935, at  
Trinity Lutheran Church in Madison, Madison County, Nebraska; and

WHEREAS, Mr. and Mrs. Hintz worked together in agriculture, farming  
ground near Randolph in Cedar County and near Enola, Madison, and  
Norfolk in Madison County, Nebraska; and

WHEREAS, Mr. and Mrs. Hintz raised five children, including Eula-Lee,

Donna Jean, Deon, Garold, and Delano; and

WHEREAS, Mr. and Mrs. Hintz' children have given them 16 grandchildren, 27 great-grandchildren, and 1 great-great grandchild; and

WHEREAS, Mr. and Mrs. Hintz will celebrate 70 years of marriage together on June 2, 2005, in Norfolk, Madison County, Nebraska; and

WHEREAS, Mr. and Mrs. Hintz are dearly loved and admired by their family.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature wishes Mr. and Mrs. Hintz a very happy 70th anniversary.

2. That a copy of this resolution be given to Mr. and Mrs. Hintz.

Laid over.

### **VISITORS**

Visitors to the Chamber were 13 third- and fourth-grade students and teacher from Christ the King School, Norfolk.

### **RECESS**

At 11:58 a.m., on a motion by Senator Heidemann, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

### **ROLL CALL**

The roll was called and all members were present except Senators Brown, Cornett, Kruse, McDonald, and Thompson who were excused until they arrive.

### **SELECT FILE**

**LEGISLATIVE BILL 348.** The Synowiecki pending amendment, AM1675, found in this day's Journal, was renewed.

Senator Synowiecki moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Senator Synowiecki requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 9:

Burling	Hudkins	Pedersen, Dw.	Price	Synowiecki
Howard	Janssen	Preister	Stuthman	

Voting in the negative, 23:

Aguilar	Chambers	Engel	Landis	Stuhr
Bourne	Combs	Erdman	Langemeier	Thompson
Brashear	Connealy	Flood	Pederson, D.	Wehrbein
Brown	Cudaback	Friend	Raikes	
Byars	Cunningham	Kremer	Smith	

Present and not voting, 15:

Baker	Fischer	Johnson	Louden	Redfield
Beutler	Foley	Kopplin	Mines	Schimek
Cornett	Jensen	Kruse	Pahls	Schrock

Absent and not voting, 1:

Heidemann

Excused and not voting, 1:

McDonald

The Synowiecki amendment lost with 9 ayes, 23 nays, 15 present and not voting, 1 absent and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Bourne offered the following amendment:

AM1681

(Amendments to E & R amendments, AM7103)

- 1 1. On page 16, line 11, strike "twenty", show as
- 2 stricken, and insert "twenty-two".

The Bourne amendment was adopted with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 348A.** Senator Bourne offered the following amendment:

AM1680

- 1 1. Insert the following new section:
- 2 "Sec. 8. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."

The Bourne amendment was adopted with 32 ayes, 0 nays, 16 present and

not voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE RESOLUTION 12CA.** Senator Friend asked unanimous consent to withdraw his pending amendment, AM0969, found on page 1014, and replace it with the Stuhr substitute pending amendment, AM1648, found on page 1692. No objections. So ordered.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion failed with 11 ayes, 10 nays, and 28 not voting.

Senator Stuhr moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Senator Chambers requested a roll call vote on the Stuhr amendment.

Voting in the affirmative, 25:

Brashear	Cornett	Heidemann	Kruse	Raikes
Burling	Cunningham	Hudkins	Landis	Redfield
Byars	Fischer	Johnson	Louden	Schrock
Combs	Flood	Kopplin	Pedersen, Dw.	Stuhr
Connealy	Friend	Kremer	Pederson, D.	Wehrbein

Voting in the negative, 15:

Aguilar	Chambers	Foley	McDonald	Smith
Baker	Cudaback	Janssen	Mines	Stuthman
Brown	Erdman	Langemeier	Schimek	Thompson

Present and not voting, 8:

Beutler	Howard	Pahls	Price
Bourne	Jensen	Preister	Synowiecki

Excused and not voting, 1:

Engel

The Stuhr amendment was adopted with 25 ayes, 15 nays, 8 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Senator Smith asked unanimous consent to withdraw his pending amendment, AM0950, found on page 1015, and replace it with his substitute pending amendment, AM1649, found on page 1634. No objections. So

ordered.

Senator Kruse offered the following amendment to the Smith pending amendment:

FA297

Amend AM1649

On page 2, lines 2-4 reinstate the stricken matter and on lines 4-6 strike the new matter.

Senator Kruse withdrew his amendment.

Senator Smith withdrew his amendment.

Pending.

**LEGISLATIVE BILL 28.** Senator Chambers renewed his pending amendment, FA16, found on page 457.

#### **SENATOR JANSSEN PRESIDING**

#### **SENATOR CUDABACK PRESIDING**

Senator Chambers offered the following amendment to his pending amendment:

FA299

Amend FA16

Strike "lines 18-23" and insert "in line 20 beginning with 'The' through 'department' in line 23".

Senator Chambers withdrew his amendment, FA299.

Senator Chambers withdrew his amendment, FA16.

Senator Landis renewed his pending amendment, FA23, found on page 560.

Senator Landis moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

Senator Landis requested a roll call vote on his amendment.

Voting in the affirmative, 22:

Brown	Fischer	Kruse	Pedersen, Dw. Schrock
Chambers	Heidemann	Landis	Pederson, D. Smith
Cornett	Jensen	Langemeier	Preister
Cudaback	Kopplin	Louden	Raikes
Erdman	Kremer	Mines	Redfield

Voting in the negative, 8:

Aguilar	Bourne	Cunningham	Howard
Beutler	Connealy	Engel	Stuhr

Present and not voting, 14:

Baker	Flood	Janssen	Price	Synowiecki
Brashear	Foley	Johnson	Schimek	Thompson
Byars	Hudkins	Pahls	Stuthman	

Excused and not voting, 5:

Burling	Combs	Friend	McDonald	Wehrbein
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The Landis amendment lost with 22 ayes, 8 nays, 14 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Chambers withdrew his pending amendments, FA28, FA29, and FA30, found on page 571.

Senator Chambers offered the following amendment:

FA298

Strike section 9.

The Chambers amendment was adopted with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

Senator Beutler offered the following amendment:

FA300

On page 4, line 7 after the period add: "and (3) Holds the fund as a permanent endowment fund"

On page 4, line 3 after "organization" add "and used for Nebraska charitable purposes"

The Beutler amendment was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

Advanced to E & R for engrossment.

## **SPEAKER BRASHEAR PRESIDING**

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LR 115 and 116 were adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 115 and 116.

**AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LR 12CA:  
AM1305

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. At a special election on May 9, 2006, the
- 4 following proposed amendment to the Constitution of Nebraska shall
- 5 be submitted to the electors of the State of Nebraska for approval
- 6 or rejection:
- 7 To amend Article III, section 7:
- 8 III-7 At the general election to be held in November
- 9 1964, one-half the members of the Legislature, or as nearly thereto
- 10 as may be practicable, shall be elected for a term of four years
- 11 and the remainder for a term of two years, and thereafter all
- 12 members shall be elected for a term of four years, with the manner
- 13 of such election to be determined by the Legislature.
- 14 When the Legislature is redistricted, the members elected
- 15 prior to the redistricting shall continue in office, and the law
- 16 providing for such redistricting shall where necessary specify the
- 17 newly established district which they shall represent for the
- 18 balance of their term. Each member shall be nominated and elected
- 19 in a nonpartisan manner and without any indication on the ballot
- 20 that he or she is affiliated with or endorsed by any political
- 21 party or organization. Each member of the Legislature shall
- 22 receive an annual a salary of ~~not to exceed one twenty-four~~
- 23 thousand dollars ~~per month~~ during the term of his or her office.
- 24 In addition to his or her salary, each member shall receive an
- 1 amount equal to his or her actual expenses in traveling by the most
- 2 usual route once to and returning from each regular or special
- 3 session of the Legislature. Members of the Legislature shall
- 4 receive no pay nor perquisites other than his or her salary and
- 5 expenses, and employees of the Legislature shall receive no
- 6 compensation other than their salary or per diem.
- 7 Sec. 2. If the proposed amendment to the Constitution of
- 8 Nebraska in section 1 of this resolution is submitted to the
- 9 electors at a special election on May 9, 2006, then at the general
- 10 election in November 2006 the following proposed amendment to the
- 11 Constitution of Nebraska shall be submitted to the electors of the
- 12 State of Nebraska for approval or rejection:
- 13 To amend Article III, section 19, and add a new section
- 14 31 to Article III:
- 15 III-19 (1) The Legislature shall never grant any extra
- 16 compensation to any public officer, agent, or servant after the

17 services have been rendered nor to any contractor after the  
18 contract has been entered into, except that retirement benefits of  
19 retired public officers and employees may be adjusted to reflect  
20 changes in the cost of living and wage levels that have occurred  
21 subsequent to the date of retirement.

22 (2) Except as otherwise provided by Article III, section  
23 31, of this Constitution, the ~~The~~ compensation of any public  
24 officer, including any officer whose compensation is fixed by the  
25 Legislature, shall not be increased or diminished during his or her  
26 term of office, except that when there are members elected or  
27 appointed to ~~the Legislature or~~ the judiciary, or officers elected  
1 or appointed to a board or commission having more than one member,  
2 and the terms of such members commence and end at different times,  
3 the compensation of all members ~~of the Legislature, of the~~  
4 judiciary, or of such board or commission may be increased or  
5 diminished at the beginning of the full term of any member thereof.

6 (3) Nothing in this section shall prevent local governing  
7 bodies from reviewing and adjusting vested pension benefits  
8 periodically as prescribed by ordinance.

9 (4) The surviving spouse of any retired public officer,  
10 agent, or servant, who has retired under a pension plan or system,  
11 shall be considered as having pensionable status and shall be  
12 entitled to the same benefits which may, at any time, be provided  
13 for or available to spouses of other public officers, agents, or  
14 servants who have retired under such pension plan or system at a  
15 later date, and such benefits shall not be prohibited by the  
16 restrictions of this section or of Article XIII, section 3, of the  
17 Constitution of Nebraska this Constitution.

18 III-31 (1) There is hereby created the Ethics and  
19 Compensation Review Commission. The members of the commission  
20 shall be appointed by the Governor. There shall be two members  
21 appointed from each congressional district and three members from  
22 the state at large. Members of the commission shall serve for  
23 terms of six years, except that of the members initially appointed,  
24 one from each of the congressional districts and one of the  
25 at-large members shall be appointed for terms of two years. No  
26 more than five members of the commission may belong to the same  
27 political party at any one time, and no elected official or  
1 employee of the state or any political subdivision or registered  
2 lobbyist may serve as a member. The term of an existing member  
3 shall terminate on the date a new member is appointed. A member  
4 may serve no more than two terms on the commission and shall  
5 receive no compensation for the performance of his or her duties  
6 but may be reimbursed for actual and necessary expenses.

7 (2) The Ethics and Compensation Review Commission shall  
8 prepare and present to the Legislature prior to November 1, 2007, a  
9 recommended legislative code of ethics which may be adopted by the  
10 Legislature. The code of ethics shall include procedures for  
11 implementing such code. Beginning three years after the initial

12 adoption of the recommended code of ethics, the Legislature may  
13 modify the code of ethics as it deems necessary or advisable to  
14 effectuate Article III, sections 10 and 16, of this Constitution.  
15 The Legislature shall maintain a code of ethics in its permanent  
16 rules.

17 (3) After the Ethics and Compensation Review Commission  
18 has presented a code of ethics to the Legislature and a code of  
19 ethics has been adopted as recommended as part of the Legislature's  
20 permanent rules, the commission shall review compensation for  
21 members of the Legislature and submit a report to the Governor and  
22 the Legislature recommending any adjustment to such compensation  
23 the commission deems appropriate. Notwithstanding the compensation  
24 limitation in Article III, section 7, of this Constitution, the  
25 Legislature may by legislative bill approve, disapprove, or reduce  
26 any recommended adjustment but may not increase the recommended  
27 adjustment, and such adjustments shall not become effective until  
1 so approved by the Legislature and, when so approved, shall become  
2 effective three calendar months following the end of the  
3 legislative session in which the adjustments were approved. The  
4 commission shall review and submit a report recommending any  
5 adjustment to compensation every fourth year and shall review and  
6 submit a recommendation with respect to changes in the legislative  
7 code of ethics every fourth year after the submission of the  
8 original recommendation.

9 Sec. 3. This section becomes operative on December 1,  
10 2006. If the proposed amendment in section 1 of this resolution is  
11 submitted to the electors at the general election in November 2006,  
12 then at the general election in November 2008 the following  
13 proposed amendment to the Constitution of Nebraska shall be  
14 submitted to the electors of the State of Nebraska for approval or  
15 rejection:

16 To amend Article III, section 19, and add a new section  
17 31 to Article III:

18 III-19 (1) The Legislature shall never grant any extra  
19 compensation to any public officer, agent, or servant after the  
20 services have been rendered nor to any contractor after the  
21 contract has been entered into, except that retirement benefits of  
22 retired public officers and employees may be adjusted to reflect  
23 changes in the cost of living and wage levels that have occurred  
24 subsequent to the date of retirement.

25 (2) Except as otherwise provided by Article III, section  
26 31, of this Constitution, the compensation of any public  
27 officer, including any officer whose compensation is fixed by the  
1 Legislature, shall not be increased or diminished during his or her  
2 term of office, except that when there are members elected or  
3 appointed to the Legislature or the judiciary, or officers elected  
4 or appointed to a board or commission having more than one member,  
5 and the terms of such members commence and end at different times,  
6 the compensation of all members of the Legislature, of the

7 judiciary; or of such board or commission may be increased or  
8 diminished at the beginning of the full term of any member thereof.

9 (3) Nothing in this section shall prevent local governing  
10 bodies from reviewing and adjusting vested pension benefits  
11 periodically as prescribed by ordinance.

12 (4) The surviving spouse of any retired public officer,  
13 agent, or servant, who has retired under a pension plan or system,  
14 shall be considered as having pensionable status and shall be  
15 entitled to the same benefits which may, at any time, be provided  
16 for or available to spouses of other public officers, agents, or  
17 servants who have retired under such pension plan or system at a  
18 later date, and such benefits shall not be prohibited by the  
19 restrictions of this section or of Article XIII, section 3, of the  
20 ~~Constitution of Nebraska~~ this Constitution.

21 III-31 (1) There is hereby created the Ethics and  
22 Compensation Review Commission. The members of the commission  
23 shall be appointed by the Governor. There shall be two members  
24 appointed from each congressional district and three members from  
25 the state at large. Members of the commission shall serve for  
26 terms of six years, except that of the members initially appointed,  
27 one from each of the congressional districts and one of the  
1 at-large members shall be appointed for terms of two years. No  
2 more than five members of the commission may belong to the same  
3 political party at any one time, and no elected official or  
4 employee of the state or any political subdivision or registered  
5 lobbyist may serve as a member. The term of an existing member  
6 shall terminate on the date a new member is appointed. A member  
7 may serve no more than two terms on the commission and shall  
8 receive no compensation for the performance of his or her duties  
9 but may be reimbursed for actual and necessary expenses.

10 (2) The Ethics and Compensation Review Commission shall  
11 prepare and present to the Legislature prior to November 1, 2007, a  
12 recommended legislative code of ethics which may be adopted by the  
13 Legislature. The code of ethics shall include procedures for  
14 implementing such code. Beginning three years after the initial  
15 adoption of the recommended code of ethics, the Legislature may  
16 modify the code of ethics as it deems necessary or advisable to  
17 effectuate Article III, sections 10 and 16, of this Constitution.  
18 The Legislature shall maintain a code of ethics in its permanent  
19 rules.

20 (3) After the Ethics and Compensation Review Commission  
21 has presented a code of ethics to the Legislature and a code of  
22 ethics has been adopted as recommended as part of the Legislature's  
23 permanent rules, the commission shall review compensation for  
24 members of the Legislature and submit a report to the Governor and  
25 the Legislature recommending any adjustment to such compensation  
26 the commission deems appropriate. Notwithstanding the compensation  
27 limitation in Article III, section 7, of this Constitution, the  
1 Legislature may by legislative bill approve, disapprove, or reduce

2 any recommended adjustment but may not increase the recommended  
 3 adjustment, and such adjustments shall not become effective until  
 4 so approved by the Legislature and, when so approved, shall become  
 5 effective three calendar months following the end of the  
 6 legislative session in which the adjustments were approved. The  
 7 commission shall review and submit a report recommending any  
 8 adjustment to compensation every fourth year and shall review and  
 9 submit a recommendation with respect to changes in the legislative  
 10 code of ethics every fourth year after the submission of the  
 11 original recommendation.

12 Sec. 4. The proposed amendments shall be submitted to  
 13 the electors in the manner prescribed by the Constitution of  
 14 Nebraska, Article XVI, section 1, with the following ballot  
 15 language:

16 A constitutional amendment to change the annual salary of  
 17 members of the Legislature to twenty-four thousand  
 18 dollars.

19 For

20 Against.

21 A constitutional amendment to create the Ethics and  
 22 Compensation Review Commission, to change provisions  
 23 relating to compensation of members of the Legislature,  
 24 and to provide for the adoption of a legislative code of  
 25 ethics.

26 For

27 Against.

1 A constitutional amendment to create the Ethics and  
 2 Compensation Review Commission, to change provisions  
 3 relating to compensation of members of the Legislature,  
 4 and to provide for the adoption of a legislative code of  
 5 ethics.

6 For

7 Against."

Senator Preister filed the following amendment to LB 40:  
 AM1693

(Amendments to AM1227)

1 1. Insert the following new section:  
 2 "Sec. 3. Section 66-1519, Revised Statutes Supplement,  
 3 2004, is amended to read:  
 4 66-1519. (1) There is hereby created the Petroleum  
 5 Release Remedial Action Cash Fund to be administered by the  
 6 department. Revenue from the following sources shall be remitted  
 7 to the State Treasurer for credit to the fund:  
 8 (a) The fees imposed by sections 66-1520 and 66-1521;  
 9 (b) Money paid under an agreement, stipulation,  
 10 cost-recovery award under section 66-1529.02, or settlement; and  
 11 (c) Money received by the department in the form of  
 12 gifts, grants, reimbursements, property liquidations, or

13 appropriations from any source intended to be used for the purposes  
14 of the fund.

15 (2) Money in the fund may be spent for: (a)

16 Reimbursement for the costs of remedial action by a responsible  
17 person or his or her designated representative and costs of  
18 remedial action undertaken by the department in response to a  
19 release first reported after July 17, 1983, and on or before June  
20 30, 2009, including reimbursement for damages caused by the  
21 department or a person acting at the department's direction while  
22 investigating or inspecting or during remedial action on property  
23 other than property on which a release or suspected release has  
1 occurred; (b) payment of any amount due from a third-party claim;  
2 (c) fee collection expenses incurred by the State Fire Marshal; (d)  
3 direct expenses incurred by the department in carrying out the  
4 Petroleum Release Remedial Action Act; (e) other costs related to  
5 fixtures and tangible personal property as provided in section  
6 66-1529.01; (f) interest payments as allowed by section 66-1524;  
7 (g) expenses incurred by the technical advisory committee created  
8 in section 81-15,189 in carrying out its duties pursuant to section  
9 81-15,190; (h) claims approved by the State Claims Board authorized  
10 under section 66-1531; (i) a grant to a city of the metropolitan  
11 class in the amount of three hundred thousand dollars, provided  
12 ~~within five days after October 1, 2003~~ no later than September 15,  
13 2005, to carry out the federal Residential Lead-Based Paint Hazard  
14 Reduction Act of 1992, 42 U.S.C. 4851 et seq., as such act existed  
15 on October 1, 2003; and (j) methyl tertiary butyl ether testing, to  
16 be conducted randomly at terminals within the state for up to two  
17 years ending June 30, 2003. The amount expended on the testing  
18 shall not exceed forty thousand dollars. The testing shall be  
19 conducted by the Department of Agriculture. The department may  
20 enter into contractual arrangements for such purpose. The results  
21 of the tests shall be made available to the Department of  
22 Environmental Quality.

23 (3) Transfers may be made from the Petroleum Release  
24 Remedial Action Cash Fund to the General Fund at the direction of  
25 the Legislature. Transfers may be made from the Petroleum Release  
26 Remedial Action Cash Fund to the Water Policy Task Force Cash Fund  
27 at the direction of the Legislature. The State Treasurer shall  
1 transfer one million five hundred thousand dollars from the  
2 Petroleum Release Remedial Action Cash Fund to the Ethanol  
3 Production Incentive Cash Fund on July 1 of each of the following  
4 years: 2004 through 2011.

5 (4) Any money in the Petroleum Release Remedial Action  
6 Cash Fund available for investment shall be invested by the state  
7 investment officer pursuant to the Nebraska Capital Expansion Act  
8 and the Nebraska State Funds Investment Act."

9 2. On page 10, line 7, strike "section 71-812" and  
10 insert "sections 66-1519 and 71-812".

11 3. Renumber the remaining sections accordingly.

Senator Preister filed the following amendment to LB 40A:  
AM1692

(Amendments to AM1259)

- 1 1. Insert the following new section:
- 2 "Sec. 4. There is hereby appropriated \$300,000 from the
- 3 Petroleum Release Remedial Action Cash Fund for FY2005-06 to the
- 4 Department of Environmental Quality, for Program 513, to aid in
- 5 carrying out the provisions of Legislative Bill 40, Ninety-ninth
- 6 Legislature, First Session, 2005.
- 7 No expenditures for permanent and temporary salaries and
- 8 per diems for state employees shall be made from funds appropriated
- 9 in this section.
- 10 There is included in the appropriation to this program
- 11 for FY2005-06 \$300,000 Cash Funds for state aid, which shall only
- 12 be used for such purpose."
- 13 2. Renumber the remaining sections accordingly.

Senator Thompson filed the following amendment to LB 761:  
AM1644

(Amendments to Standing Committee amendments, AM0659)

- 1 1. On page 1, strike beginning with the second "the" in
- 2 line 4 through "coordinator" in line 6 and insert "line 12 and
- 3 insert 'one director of a child advocacy center'".

Senator Cornett filed the following amendment to LB 478:  
AM1690

(Amendments to E & R amendments, AM7101)

- 1 1. On page 7, line 26, after "salaries" insert "by the
- 2 taxpayer who by nature of his or her duties must meet eligibility
- 3 requirements for access to classified information if such wages and
- 4 salaries are".
- 5 2. On page 8, line 7, after "Defense" insert "and that
- 6 the taxpayer meets eligibility requirements for access to
- 7 classified information".

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 233.** Introduced by Pahls, 31.

WHEREAS, Millard West freshman Brittany Poole won the Gold Medal in both the 1,600 meter and 3,200 meter races at the 2005 Girls' State High School Track Meet; and

WHEREAS, Brittany won the 1,600 meter race with a time of 5:15. 23 and won the 3,200 meter race with a time of 11:21. 67; and

WHEREAS, Brittany not only had the best times in Class A, but she had the best times for all classes; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That Brittany Poole be congratulated for her exemplary effort this season and for winning the Gold Medal in both the 1,600 meter and 3,200 meter races at the state track meet.

2. That a copy of this resolution be sent to Brittany Poole.

Laid over.

**LEGISLATIVE RESOLUTION 234.** Introduced by Pahls, 31.

WHEREAS, the Millard North High School baseball team won the Class A State Baseball Championship Game; and

WHEREAS, the top-ranked Mustangs completed an undefeated season, the first such unbeaten baseball season since 1984, and compiled a 35-0 record; and

WHEREAS, the Mustang baseball team finished the season ranked fifth in the nation and claimed the school's second state title; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Millard North High School baseball team be congratulated for their exemplary effort this season and in winning the Class A state baseball championship.

2. That a copy of this resolution be sent to coach Dave Cork and the Millard North Mustang baseball team.

Laid over.

**AMENDMENT - Print in Journal**

Senator Smith filed the following amendment to LB 70:

(Amendment, AM1670, is printed separately and available in the Bill Room, Room 1104.)

**SELECT COMMITTEE REPORTS**

**Enrollment and Review**

**Correctly Engrossed**

The following bills were correctly engrossed: LBs 117 and 566.

ER9041

Enrollment and Review Change to LB 117

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Bourne amendment, FA283:

- a. Amendment 4 has been struck; and
- b. The matter beginning with the semicolon in line 20 through the quotation mark in line 22 has been struck.

ER9039

Enrollment and Review Change to LB 566

The following changes, required to be reported for publication in the Journal, have been made:

1. The Pederson amendment, AM1315, has been incorporated into the Schimek amendment, AM0993 as follows:

a. In the Pederson amendment, AM1315:

i. Sections 32, 60, and 61, have been renumbered as sections 30, 56, and 57, respectively; and

ii. On page 4, line 20, "32 and 61" has been struck and "30, 56, and 57" inserted; and

b. In the Schimek amendment, AM0993, section 55 has been struck.

2. On page 1, lines 3 through 10 have been struck and ", 32-315, 32-318 to 32-326, 32-328, 32-329, 32-554, 32-901, 32-908, 32-909, 32-914, 32-914.01, 32-914.02, 32-916, 32-921, and 32-1002, Reissue Revised Statutes of Nebraska, section 32-915, Reissue Revised Statutes of Nebraska, as amended by section 5, Legislative Bill 401, Ninety-ninth Legislature, First Session, 2005, and sections 32-938 to 32-943, 32-945 to 32-951, 32-1027, and 32-1502, Reissue Revised Statutes of Nebraska, as amended by sections 10 to 15, 17 to 23, 26, and 30, respectively, Legislative Bill 98, Ninety-ninth Legislature, First Session, 2005; to provide powers and duties and change and eliminate provisions relating to registration of voters and the conduct of elections; to change requirements for elections in certain political subdivisions; to harmonize provisions; to provide operative dates; to" inserted.

(Signed) Michael Flood, Chairperson

**AMENDMENT - Print in Journal**

Senator Connealy filed the following amendment to LB 28A:  
FA301

On page 2, line 1, strike "332,000" and insert "82,000"

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Byars asked unanimous consent to have his name added as cointroducer to LB 373. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were 48 fourth-grade students and teachers from

Harvey Oaks Elementary School, Omaha.

**ADJOURNMENT**

At 4:59 p.m., on a motion by Senator Raikes, the Legislature adjourned until 9:00 a.m., Tuesday, May 24, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**EIGHTY-FOURTH DAY - MAY 24, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****EIGHTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, May 24, 2005

**PRAYER**

The prayer was offered by Pastor Paul Witt, St. Mary's Catholic Church, Lincoln.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Cornett, McDonald, Mines, Pahls, and Dw. Pedersen who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-third day was approved.

**GENERAL FILE**

**LEGISLATIVE BILL 126A.** Title read. Considered.

Senator Heidemann offered the following amendment:  
AM1705

- 1 1. On page 2, line 1, strike "\$650,000" and insert
- 2 "-0-".

Senator Heidemann withdrew his amendment.

Senator Heidemann offered the following amendment:  
AM1706

- 1 1. On page 2, line 1, strike "\$650,000" and insert
- 2 "\$300,000".

**SENATOR BAKER PRESIDING**

Senator Heidemann moved for a call of the house. The motion prevailed

with 30 ayes, 0 nays, and 19 not voting.

The Heidemann amendment lost with 6 ayes, 25 nays, 14 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for review with 33 ayes, 4 nays, 8 present and not voting, and 4 excused and not voting.

### **MOTION - Return LB 211A to Select File**

Senator Landis moved to return LB 211A to Select File for his specific pending amendment, AM1499, found on page 1483.

The Landis motion to return prevailed with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

### **SELECT FILE**

**LEGISLATIVE BILL 211A.** The Landis specific pending amendment, AM1499, found on page 1483, was adopted with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

Advanced to E & R for reengrossment.

**LEGISLATIVE RESOLUTION 12CA.** Senator Redfield renewed her pending amendment, AM0998, found on page 1115.

### **SENATOR CUDABACK PRESIDING**

Senator Redfield withdrew her amendment.

Pending.

### **AMENDMENTS - Print in Journal**

Senators Schrock, Brashear, and Jensen filed the following amendment to LB 548:

AM1696

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Sections 1 to 17 of this act shall be known
- 4 and may be cited as the Public Entities Mandated Project Charges
- 5 Act.
- 6 Sec. 2. For purposes of the Public Entities Mandated
- 7 Project Charges Act, the definitions found in sections 3 to 11 of
- 8 this act apply.
- 9 Sec. 3. Financing costs means:

10 (1) Interest, including, but not limited to, capitalized  
11 interest, and redemption premiums that are payable on mandated  
12 project bonds;

13 (2) The cost of retiring or refunding a public entity's  
14 existing debt in connection with the issuance of mandated project  
15 bonds, but only to the extent the debt was issued for the purposes  
16 of financing mandated project costs;

17 (3) Any cost related to the issuing and servicing of  
18 mandated project bonds, including, but not limited to, servicing  
19 fees, trustee fees, legal fees, administrative fees, bond counsel  
20 fees, bond placement or underwriting fees, remarketing fees, broker  
21 dealer fees, payments under an interest rate swap agreement,  
22 financial advisor fees, accounting or engineering report fees, and  
23 rating agency fees;

24 (4) Any expense associated with any bond insurance  
1 policy, credit enhancement, or other financial arrangement entered  
2 into in connection with the issuance of mandated project bonds; and

3 (5) The funding of one or more reserve accounts related  
4 to mandated project bonds.

5 Sec. 4. Mandate means a requirement imposed by a statute  
6 of the United States or the State of Nebraska, a rule, a  
7 regulation, an administrative or a judicial order, a licensing  
8 requirement or condition, any agreement with or requirement of a  
9 regional transmission organization, or any consent order or  
10 agreement between the United States or the State of Nebraska, or  
11 any agency thereof, and a public entity.

12 Sec. 5. Mandated project means the construction,  
13 retrofitting, rebuilding, acquisition, or installation of any  
14 equipment, device, structure, improvement, process, facility,  
15 technology, or other property owned, licensed, or controlled by a  
16 public entity or operated for the benefit of a public entity  
17 through a power participation or purchase agreement, either within  
18 or outside the State of Nebraska, and used in connection with a new  
19 or existing facility related to electrical power generation,  
20 transmission, or distribution, which construction, retrofitting,  
21 rebuilding, acquisition, or installation is undertaken to satisfy a  
22 mandate, including, but not limited to, any equipment, device,  
23 structure, improvement, process, facility, technology, or other  
24 property related to environmental pollution control, safety, or  
25 useful life extension of an existing plant or facility.

26 Sec. 6. Mandated project bonds means bonds, notes, or  
27 other evidences of indebtedness that are issued by a public entity,  
1 the proceeds of which are used directly or indirectly to pay or  
2 reimburse mandated project costs and financing costs and which  
3 bonds are secured by and payable from mandated project charges.

4 Sec. 7. Mandated project charge means a charge paid by  
5 customers of a public entity to pay or reimburse the public entity  
6 for mandated project costs, including any adjustment of the charge  
7 pursuant to subdivision (4) of section 12 of this act, or financing

8 costs.

9 Sec. 8. Mandated project costs means capital costs  
10 incurred or to be incurred by a public entity with respect to a  
11 mandated project, including the payment of debt service on mandated  
12 project bonds, either directly or through a power participation or  
13 purchase agreement, and any related operating expenses.

14 Sec. 9. Public entity means a municipality, a registered  
15 group of municipalities, a public power district, a public power  
16 and irrigation district, an electric cooperative, an electric  
17 membership association, a joint entity formed under the Interlocal  
18 Cooperation Act, a joint public agency formed under the Joint  
19 Public Agency Act, an agency formed under the Municipal Cooperative  
20 Financing Act, or any other governmental entity.

21 Sec. 10. Related operating expenses means any necessary  
22 operating expenses of a project or system required to be paid from  
23 the mandated project charge by an order of a court pursuant to 11  
24 U.S.C. 928(b), as such section existed on January 1, 2005, and any  
25 successor provision thereof.

26 Sec. 11. Special revenues has the definition found in 11  
27 U.S.C. 902(2) as such section existed on January 1, 2005, and any  
1 successor provision thereof.

2 Sec. 12. A public entity may elect to pay or reimburse  
3 mandated project costs and financing costs through the use of  
4 mandated project charges. Public entities are hereby authorized to  
5 impose and collect mandated project charges as provided in the  
6 Public Entities Mandated Project Charges Act. The election to use  
7 mandated project charges shall be made and evidenced by the  
8 adoption of a resolution of the governing body of the public entity  
9 authorizing the mandated project as set forth in the public  
10 entity's capital budget. The authorizing resolution shall include  
11 the following:

12 (1) A statement that the project is a mandated project  
13 and a description of the mandate that will be addressed by the  
14 mandated project;

15 (2) A statement that the public entity is electing to pay  
16 or reimburse the mandated project costs and financing costs with  
17 mandated project charges in accordance with the Public Entities  
18 Mandated Project Charges Act;

19 (3) An authorization to add a separate charge to each  
20 customer's electric service bill, representing such customer's  
21 portion of the mandated project charge;

22 (4) A description of the financial calculation, formula,  
23 or other method that the public entity utilizes to determine the  
24 mandated project charges that customers will be required to pay for  
25 the mandated project, including a periodic adjustment method,  
26 applied at least annually, that shall be utilized by the public  
27 entity to correct for any overcollection or undercollection of such  
1 mandated project charges or any other adjustment necessary to  
2 assure payment of debt service on mandated project bonds,

3 including, but not limited to, the adjustment of the mandated  
4 project charges to pay related operating expenses and any debt  
5 service coverage requirement. The financial calculation, formula,  
6 or other method, including the periodic adjustment method,  
7 established in the authorizing resolution pursuant to this  
8 subdivision, and the allocation of mandated project charges to and  
9 among its customers, shall be decided solely by the governing body  
10 of the public entity and shall be final and conclusive. In no  
11 event shall the periodic adjustment method established in the  
12 authorizing resolution pursuant to this subdivision be applied less  
13 frequently than required by the governing documents of any mandated  
14 project bonds issued to finance the mandated project. Once the  
15 financial calculation, formula, or other method for determining the  
16 mandated project charges, and the periodic adjustment method, have  
17 been established in the authorizing resolution, they shall not be  
18 changed; and

19 (5) If mandated project bonds are to be issued for the  
20 mandated project, a requirement that the public entity shall enter  
21 into a servicing agreement for the bonds with a trustee selected by  
22 the governing body and the public entity shall act as a servicing  
23 agent for purposes of collecting the mandated project charges.  
24 Money collected by the public entity, acting as a servicing agent  
25 on behalf of a trustee, shall be held for the exclusive benefit of  
26 holders of mandated project bonds.

27 The determination of the governing body that a project is  
1 a mandated project shall be final and conclusive, and any mandated  
2 project bonds issued and mandated project charges imposed relating  
3 to such determination shall be valid and enforceable in accordance  
4 with their terms. The public entity shall require, in its  
5 authorizing resolution with respect to mandated project charges,  
6 that so long as any customer obtains electric distribution service  
7 from the public entity, the customer shall pay the mandated project  
8 charge to the public entity regardless of whether or not the  
9 customer obtains electric energy service from the public entity or  
10 another energy supplier other than the public entity. All  
11 provisions of the authorizing resolution adopted pursuant to this  
12 section shall be binding on the public entity and on any successor  
13 or assignee of the public entity.

14 The timely and complete payment of all mandated project  
15 charges shall be a condition of receiving electric service for  
16 customers of the public entity, and the public entity shall be  
17 authorized to use its established collection policies and all  
18 rights and remedies provided by the law to enforce payment and  
19 collection of the mandated project charges. In no event shall any  
20 customer of a public entity be entitled or authorized to withhold  
21 payment, in whole or in part, of any mandated project charges for  
22 any reason.

23 Sec. 13. (1) A public entity has the authority to issue  
24 mandated project bonds, including refunding bonds, in one or more

25 series. Mandated project charges to which the public entity may at  
26 any time be entitled shall be pledged, without any necessity for  
27 specific authorization of the pledge by the public entity, to the  
1 mandated project bonds. Each such series of mandated project bonds  
2 shall be secured by and payable from a first lien on mandated  
3 project charges pledged for such purpose. Any separate consensual  
4 lien or security interest shall be created in accordance with and  
5 governed by the Nebraska Governmental Unit Security Interest Act.  
6 The proceeds of such bonds shall be applied exclusively to payment  
7 of mandated project costs and financing costs and, in the case of  
8 proceeds of refunding bonds, the retirement or defeasance of  
9 mandated project bonds.

10 (2) The public entity and any successor or assignee of  
11 the public entity shall be obligated to impose and collect the  
12 mandated project charges in amounts sufficient to pay debt service  
13 on the mandated project bonds as due. The pledge of mandated  
14 project charges shall be irrevocable, and the state, the public  
15 entity, or any successor or assignee of the public entity may not  
16 reduce, impair, or otherwise adjust mandated project charges,  
17 except that the public entity and any successor or assignee thereof  
18 shall implement the periodic adjustment method established by the  
19 authorizing resolution pursuant to subdivision (4) of section 12 of  
20 this act. Revenues from mandated project charges shall be deemed  
21 special revenues and shall not constitute revenue of the public  
22 entity for purposes of any pledge of revenues, receipts, or other  
23 income that such public entity has made or will make for the  
24 security of debt other than the mandated project bonds to which the  
25 revenues from the mandated project charges is expressly pledged.

26 Sec. 14. Mandated project charges shall be applied  
27 exclusively for the purpose of paying mandated project costs,  
1 including any adjustments or such charges pursuant to subdivision  
2 (4) of section 12 of this act, and financing costs.

3 Sec. 15. A public entity undertaking a mandated project  
4 is not required to pay or reimburse the costs of the mandated  
5 project with mandated project charges, and such public entity is  
6 not required to issue mandated project bonds. The use of mandated  
7 project charges and issuance of mandated project bonds are elective  
8 actions wholly within the discretion of the public entity.

9 Sec. 16. A public entity collecting mandated project  
10 charges shall annually provide its customers with a concise  
11 explanation of mandated project charges billed to customers. Such  
12 explanation may be by billing insert, web site information, or  
13 other appropriate means.

14 Sec. 17. The Public Entities Mandated Project Charges  
15 Act and all grants of power and authority in the act shall be  
16 liberally construed to effectuate their purpose, and all incidental  
17 powers necessary to carry into effect the provisions of the act are  
18 expressly granted to and conferred upon public entities.

19 Sec. 18. If any section in this act or any part of any

20 section is declared invalid or unconstitutional, the declaration  
21 shall not affect the validity or constitutionality of the remaining  
22 portions.".

Senator Connealy filed the following amendment to LB 71:  
AM1694

(Amendments to Final Reading copy)

- 1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 77-27,187.01, Reissue Revised  
4 Statutes of Nebraska, is amended to read:  
5 77-27,187.01. For purposes of the Employment Expansion  
6 and Investment Incentive Act, unless the context otherwise  
7 requires:  
8 (1) Any term has the same meaning as used in the Nebraska  
9 Revenue Act of 1967;  
10 (2) Equivalent Nebraska employees means the number of  
11 Nebraska employees computed by dividing the total hours paid in a  
12 year to Nebraska employees by the product of forty times the number  
13 of weeks in a year;  
14 (3) Nebraska employee means an individual who is either a  
15 resident or partial-year resident of Nebraska;  
16 (4) Qualified employee leasing company means a company  
17 which places all employees of a client-lessee on its payroll and  
18 leases such employees to the client-lessee on an ongoing basis for  
19 a fee and, by written agreement between the employee leasing  
20 company and a client-lessee, grants to the client-lessee input into  
21 the hiring and firing of the employees leased to the client-lessee;  
22 (5) Related taxpayers includes any corporations that are  
23 part of a unitary business under the Nebraska Revenue Act of 1967  
1 but are not part of the same corporate taxpayer, any business  
2 entities that are not corporations but which would be a part of the  
3 unitary business if they were corporations, and any business  
4 entities if at least fifty percent of such entities are owned by  
5 the same persons or related taxpayers and family members as defined  
6 in the ownership attribution rules of the Internal Revenue Code of  
7 1986, as amended;  
8 (6) Taxpayer means a corporate taxpayer or other person  
9 subject to either an income tax imposed by the Nebraska Revenue Act  
10 of 1967 or a franchise tax under Chapter 77, article 38, or a  
11 partnership, limited liability company, subchapter S corporation,  
12 cooperative, including a cooperative exempt under section 521 of  
13 the Internal Revenue Code of 1986, as amended, or joint venture  
14 when all of the partners, shareholders, or members are subject to  
15 or exempt from such taxes; and  
16 (7) Year means the taxable year of the taxpayer.  
17 Sec. 2. Original section 77-27,187.01, Reissue Revised  
18 Statutes of Nebraska, is repealed.".

### SELECT COMMITTEE REPORTS Enrollment and Review

**LEGISLATIVE BILL 332.** Placed on Select File as amended.

E & R amendment to LB 332:

AM7105

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. It is the intent of the Legislature to
- 4 appropriate five hundred thousand dollars from the Nebraska Health
- 5 Care Cash Fund for FY2005-06 for compulsive gamblers assistance
- 6 programs, which appropriations shall be in addition to any funds
- 7 appropriated from the Charitable Gaming Operations Fund or the
- 8 State Lottery Operation Trust Fund to the Compulsive Gamblers
- 9 Assistance Fund for such fiscal years for such programs.
- 10 Sec. 2. This act becomes operative on July 1, 2005.
- 11 Sec. 3. Since an emergency exists, this act takes effect
- 12 when passed and approved according to law."
- 13 2. On page 1, strike beginning with "the" in line 1
- 14 through line 6 and insert "compulsive gamblers assistance programs;
- 15 to state intent regarding funding for compulsive gamblers
- 16 assistance programs; to provide an operative date; and to declare
- 17 an emergency."

**LEGISLATIVE BILL 332A.** Placed on Select File.

### Correctly Engrossed

The following bills were correctly engrossed: LBs 126, 348, and 348A.

ER9040

Enrollment and Review Change to LB 126

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Raikes amendment, AM1672:
  - a. Section 54 has been renumbered as section 44;
  - b. On page 3, line 23, "a" has been struck;
  - c. On page 4, line 25, "a special grant fund" has been struck and "special grant funds" inserted;
  - d. On page 7, line 22; and page 8, line 27, "the" has been inserted after "from".
2. On page 1, line 3, "79-423," has been inserted after the last comma; in line 4 "79-435," has been inserted after the second comma; in line 6 "79-857," has been inserted before "79-1003" and in line 11 "to provide for community schools, rural education transition funds, and elementary improvement grants;" has been inserted after the semicolon.
3. On page 74, line 9, "5, 37, 44, and 49" has been struck and "8, 42, 50,

and 55" inserted; in line 17 "79-433, 79-434" has been struck and "79-423, 79-433, 79-434, 79-435" inserted; and in line 19 "79-857," has been inserted before "79-1003".

(Signed) Michael Flood, Chairperson

### SELECT FILE

**LEGISLATIVE RESOLUTION 12CA.** Senator Redfield withdrew her pending amendments, AM1016 and AM1024, found on page 1115.

Senator Schimek asked unanimous consent to withdraw her pending amendment, AM0899, found on page 1324, and replace it with the Schimek-Friend-Stuhr substitute amendment, AM1703. No objections. So ordered.  
AM1703

(Amendments to the Stuhr amendment, AM1648)

- 1 1. On page 1, line 21, strike "eighteen" and insert
- 2 "twenty-one".
- 3 2. On page 3, line 13, strike "eighteen" and insert
- 4 "twenty-one".

Senator Schimek moved for a call of the house. The motion prevailed with 23 ayes, 0 nays, and 26 not voting.

The Schimek et al. amendment was adopted with 27 ayes, 5 nays, 15 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Stuhr withdrew her pending amendments, AM1542 and AM1541, found on pages 1514 and 1515.

Senator Jensen withdrew his pending amendment, AM1050, found on page 1517.

Senator Beutler withdrew his pending amendment, AM1305, found on page 1707.

Senator Schimek reoffered her amendment, AM0899, found on page 1324 and considered in this day's Journal.

The Schimek amendment was adopted with 26 ayes, 2 nays, 19 present and not voting, and 2 excused and not voting.

Senator Beutler offered the following amendment:  
AM1702

- 1 1. Insert the following new sections:
- 2 "Sec. 2. If the proposed amendment to the Constitution of
- 3 Nebraska in section 1 of this resolution is submitted to the

4 electors at a special election on May 9, 2006, then at the general  
5 election in November 2006 the following proposed amendment to the  
6 Constitution of Nebraska shall be submitted to the electors of the  
7 State of Nebraska for approval or rejection:

8 To amend Article III, section 19, and add a new section  
9 31 to Article III:

10 III-19 (1) The Legislature shall never grant any extra  
11 compensation to any public officer, agent, or servant after the  
12 services have been rendered nor to any contractor after the  
13 contract has been entered into, except that retirement benefits of  
14 retired public officers and employees may be adjusted to reflect  
15 changes in the cost of living and wage levels that have occurred  
16 subsequent to the date of retirement.

17 (2) Except as otherwise provided by Article III, section  
18 31, of this Constitution, the compensation of any public  
19 officer, including any officer whose compensation is fixed by the  
20 Legislature, shall not be increased or diminished during his or her  
21 term of office, except that when there are members elected or  
22 appointed to the Legislature or the judiciary, or officers elected  
23 or appointed to a board or commission having more than one member,  
24 and the terms of such members commence and end at different times,  
1 the compensation of all members of the Legislature, of the  
2 judiciary, or of such board or commission may be increased or  
3 diminished at the beginning of the full term of any member thereof.

4 (3) Nothing in this section shall prevent local governing  
5 bodies from reviewing and adjusting vested pension benefits  
6 periodically as prescribed by ordinance.

7 (4) The surviving spouse of any retired public officer,  
8 agent, or servant, who has retired under a pension plan or system,  
9 shall be considered as having pensionable status and shall be  
10 entitled to the same benefits which may, at any time, be provided  
11 for or available to spouses of other public officers, agents, or  
12 servants who have retired under such pension plan or system at a  
13 later date, and such benefits shall not be prohibited by the  
14 restrictions of this section or of Article XIII, section 3, of the  
15 Constitution of Nebraska this Constitution.

16 III-31 (1) There is hereby created the Ethics and  
17 Compensation Review Commission. The members of the commission  
18 shall be appointed by the Governor. There shall be two members  
19 appointed from each congressional district and three members from  
20 the state at large. Members of the commission shall serve for  
21 terms of six years, except that of the members initially appointed,  
22 one from each of the congressional districts and one of the  
23 at-large members shall be appointed for terms of two years. No  
24 more than five members of the commission may belong to the same  
25 political party at any one time, and no elected official or  
26 employee of the state or any political subdivision or registered  
27 lobbyist may serve as a member. The term of an existing member  
1 shall terminate on the date a new member is appointed. A member

2 may serve no more than two terms on the commission and shall  
3 receive no compensation for the performance of his or her duties  
4 but may be reimbursed for actual and necessary expenses.  
5 (2) The Ethics and Compensation Review Commission shall  
6 prepare and present to the Legislature prior to November 1, 2007, a  
7 recommended legislative code of ethics which may be adopted by the  
8 Legislature. The code of ethics shall include procedures for  
9 implementing such code. Beginning three years after the initial  
10 adoption of the recommended code of ethics, the Legislature may  
11 modify the code of ethics as it deems necessary or advisable to  
12 effectuate Article III, sections 10 and 16, of this Constitution.  
13 The Legislature shall maintain a code of ethics in its permanent  
14 rules.  
15 (3) After the Ethics and Compensation Review Commission  
16 has presented a code of ethics to the Legislature and a code of  
17 ethics has been adopted as recommended as part of the Legislature's  
18 permanent rules, the commission shall review compensation for  
19 members of the Legislature and submit a report to the Governor and  
20 the Legislature recommending any adjustment to such compensation  
21 the commission deems appropriate. Notwithstanding the compensation  
22 limitation in Article III, section 7, of this Constitution, the  
23 Legislature may by legislative bill approve, disapprove, or reduce  
24 any recommended adjustment but may not increase the recommended  
25 adjustment, and such adjustments shall not become effective until  
26 so approved by the Legislature and, when so approved, shall become  
27 effective three calendar months following the end of the  
1 legislative session in which the adjustments were approved. The  
2 commission shall review and submit a report recommending any  
3 adjustment to compensation every fourth year and shall review and  
4 submit a recommendation with respect to changes in the legislative  
5 code of ethics every fourth year after the submission of the  
6 original recommendation.  
7 Sec. 3. This section becomes operative on December 1,  
8 2006. If the proposed amendment in section 1 of this resolution is  
9 submitted to the electors at the general election in November 2006,  
10 then at the general election in November 2008 the following  
11 proposed amendment to the Constitution of Nebraska shall be  
12 submitted to the electors of the State of Nebraska for approval or  
13 rejection:  
14 To amend Article III, section 19, and add a new section  
15 31 to Article III:  
16 III-19 (1) The Legislature shall never grant any extra  
17 compensation to any public officer, agent, or servant after the  
18 services have been rendered nor to any contractor after the  
19 contract has been entered into, except that retirement benefits of  
20 retired public officers and employees may be adjusted to reflect  
21 changes in the cost of living and wage levels that have occurred  
22 subsequent to the date of retirement.  
23 (2) Except as otherwise provided by Article III, section

24 31. of this Constitution, the ~~The~~ compensation of any public  
25 officer, including any officer whose compensation is fixed by the  
26 Legislature, shall not be increased or diminished during his or her  
27 term of office, except that when there are members elected or  
1 appointed to ~~the Legislature or~~ the judiciary; or officers elected  
2 or appointed to a board or commission having more than one member;  
3 and the terms of such members commence and end at different times,  
4 the compensation of all members ~~of the Legislature,~~ of the  
5 judiciary; or of such board or commission may be increased or  
6 diminished at the beginning of the full term of any member thereof.

7 (3) Nothing in this section shall prevent local governing  
8 bodies from reviewing and adjusting vested pension benefits  
9 periodically as prescribed by ordinance.

10 (4) The surviving spouse of any retired public officer,  
11 agent, or servant, who has retired under a pension plan or system,  
12 shall be considered as having pensionable status and shall be  
13 entitled to the same benefits which may, at any time, be provided  
14 for or available to spouses of other public officers, agents, or  
15 servants who have retired under such pension plan or system at a  
16 later date, and such benefits shall not be prohibited by the  
17 restrictions of this section or of Article XIII, section 3, of the  
18 Constitution of Nebraska this Constitution.

19 III-31 (1) There is hereby created the Ethics and  
20 Compensation Review Commission. The members of the commission  
21 shall be appointed by the Governor. There shall be two members  
22 appointed from each congressional district and three members from  
23 the state at large. Members of the commission shall serve for  
24 terms of six years, except that of the members initially appointed,  
25 one from each of the congressional districts and one of the  
26 at-large members shall be appointed for terms of two years. No  
27 more than five members of the commission may belong to the same  
1 political party at any one time, and no elected official or  
2 employee of the state or any political subdivision or registered  
3 lobbyist may serve as a member. The term of an existing member  
4 shall terminate on the date a new member is appointed. A member  
5 may serve no more than two terms on the commission and shall  
6 receive no compensation for the performance of his or her duties  
7 but may be reimbursed for actual and necessary expenses.

8 (2) The Ethics and Compensation Review Commission shall  
9 prepare and present to the Legislature prior to November 1, 2009, a  
10 recommended legislative code of ethics which may be adopted by the  
11 Legislature. The code of ethics shall include procedures for  
12 implementing such code. Beginning three years after the initial  
13 adoption of the recommended code of ethics, the Legislature may  
14 modify the code of ethics as it deems necessary or advisable to  
15 effectuate Article III, sections 10 and 16, of this Constitution.  
16 The Legislature shall maintain a code of ethics in its permanent  
17 rules.

18 (3) After the Ethics and Compensation Review Commission

19 has presented a code of ethics to the Legislature and a code of  
20 ethics has been adopted as recommended as part of the Legislature's  
21 permanent rules, the commission shall review compensation for  
22 members of the Legislature and submit a report to the Governor and  
23 the Legislature recommending any adjustment to such compensation  
24 the commission deems appropriate. Notwithstanding the compensation  
25 limitation in Article III, section 7, of this Constitution, the  
26 Legislature may by legislative bill approve, disapprove, or reduce  
27 any recommended adjustment but may not increase the recommended  
1 adjustment, and such adjustments shall not become effective until  
2 so approved by the Legislature and, when so approved, shall become  
3 effective three calendar months following the end of the  
4 legislative session in which the adjustments were approved. The  
5 commission shall review and submit a report recommending any  
6 adjustment to compensation every fourth year and shall review and  
7 submit a recommendation with respect to changes in the legislative  
8 code of ethics every fourth year after the submission of the  
9 original recommendation."

10 2. On page 1, line 3, strike "the general election in  
11 November 2006" and insert "a special election on May 9, 2006,".

12 3. On page 2, after line 22 insert the following:  
13 "A constitutional amendment to create the Ethics and  
14 Compensation Review Commission, to change provisions  
15 relating to compensation of members of the Legislature,  
16 and to provide for the adoption of a legislative code of  
17 ethics.

18 For  
19 Against.

20 A constitutional amendment to create the Ethics and  
21 Compensation Review Commission, to change provisions  
22 relating to compensation of members of the Legislature,  
23 and to provide for the adoption of a legislative code of  
24 ethics.

25 For  
26 Against."

27 4. Renumber the remaining section accordingly.

The Beutler amendment lost with 13 ayes, 14 nays, 20 present and not voting, and 2 excused and not voting.

Senator Schimek requested a record vote on the advancement of the resolution.

Voting in the affirmative, 34:

Aguilar	Cornett	Hudkins	Langemeier	Redfield
Brashear	Cunningham	Janssen	Louden	Schimek
Brown	Engel	Johnson	McDonald	Schrock
Burling	Erdman	Kopplin	Mines	Smith
Byars	Fischer	Kremer	Pedersen, Dw.	Stuhr
Chambers	Flood	Kruse	Pederson, D.	Wehrbein
Connealy	Heidemann	Landis	Preister	

Voting in the negative, 0.

Present and not voting, 13:

Baker	Combs	Friend	Raikes	Thompson
Beutler	Cudaback	Howard	Stuthman	
Bourne	Foley	Price	Synowiecki	

Excused and not voting, 2:

Jensen              Pahls

Advanced to E & R for engrossment with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 40.** E & R amendment, AM7089, found on page 1327, was adopted.

Senator Beutler withdrew his pending amendment, AM1329, found on page 1306.

Senator Redfield withdrew the Redfield-Chambers pending amendment, AM1446, found on page 1389.

Senator Redfield renewed the Redfield-Chambers pending amendment, AM1562, found on page 1504.

The Redfield-Chambers amendment was adopted with 29 ayes, 0 nays, 17 present and not voting, and 3 excused and not voting.

Senator Redfield renewed her pending amendment, AM1666, found on page 1678.

Pending.

### **MOTION - Print in Journal**

Senator Schrock filed the following motion to LB 548:

Suspend Rule 7, Section (3)(d) to permit consideration of AM1696 as an amendment to LB 548.

**VISITORS**

Visitors to the Chamber were Senator Stuthman's grandson, Christopher Sander, from David City; 66 fourth-grade students and teachers from Black Elk Elementary School, Omaha; 25 fourth-grade students and teachers from Anderson Grove Elementary School, Bellevue; 14 fourth-grade students and teacher from Cody Elementary School, Omaha; 14 fourth- and fifth-grade students and teacher from West Lincoln Elementary School, Lincoln; and 23 third-grade students and teacher from Arnold Elementary School, Lincoln.

**RECESS**

At 12:01 p.m., on a motion by Senator Hudkins, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Cornett, Engel, Jensen, Kruse, McDonald, Mines, Dw. Pedersen, and Schrock who were excused until they arrive.

**SELECT COMMITTEE REPORT**  
**Enrollment and Review**

**LEGISLATIVE BILL 126A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

**GENERAL FILE**

**LEGISLATIVE BILL 538.** Title read. Considered.

The Standing Committee amendment, AM1650, printed separately and referred to on page 1669, was considered.

Senator Brashear offered the following amendment to the Standing Committee amendment:

AM1713

(Amendments to Standing Committee amendments, AM1650)

- 1 1. Strike section 16 and insert the following new
- 2 section:
- 3 "Sec. 26. The following section is outright repealed:
- 4 Section 47-626, Reissue Revised Statutes of Nebraska."
- 5 2. On page 15, line 27, after the underscored semicolon
- 6 insert "and".

- 7 3. On page 16, strike beginning with the underscored  
8 semicolon in line 2 through "29-2246" in line 6.  
9 4. On page 30, line 18, after "to" insert "47-625,".  
10 5. Renumber the remaining sections and correct internal  
11 references accordingly.

The Brashear amendment was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 37 ayes, 0 nays, 7 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 40 ayes, 0 nays, 4 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 538A.** Title read. Considered.

Advanced to E & R for review with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

## MESSAGES FROM THE GOVERNOR

May 24, 2005

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 421e, 422e, 423e, 424e, 426e, 427e, and 737e were received in my office on May 18, 2005.

I signed these bills and delivered them to the Secretary of State on May 24, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

May 24, 2005

Mr. President, Mr. Speaker,  
And Members of the Legislature  
State Capitol  
Lincoln, NE 68509

Dear Mr. President, Mr. Speaker, and Members of the Legislature:

With this letter, I am returning LB 425 with my signature and with line-item reductions. My vetoes in LB 425 total \$8.0 million over the next two years. A list of the individual vetoes is attached to this letter.

The Appropriations Committee and the entire Legislature have enacted a State budget that reflects both optimism and caution. I want to particularly applaud the leadership and direction provided by Senator Don Pederson, Chairman of the Appropriations Committee. We are in agreement on most of the budget and especially on the importance of investing in the education of our young people and the need to promote economic vitality throughout Nebraska.

I have made some line-item reductions in the restoration of previous budget cuts and new and/or expanded funding included in LB 425. My vetoes represent a fine tuning of your appropriations. The State of Nebraska has suffered several difficult financial years and this biennial budget is an investment in our future -- especially K-12 education, the University of Nebraska and higher education, and the economic vitality of our State.

I have vetoed \$195,238 of the \$290,238 additional General Funds in FY 2005-06 provided to the Supreme Court for three new court studies which were not included in my budget recommendations. After my veto, \$95,000 remains for a proposed study of judicial caseloads and workloads. I urge the Chief Justice, other Nebraska judges, and the Court's professional staff to undertake the task of recommending other improvements in our Court system without the requirement of additional funding.

I have reduced funding for new probation staff above my recommendations by one-half in FY 2005-06 and one-fourth in FY 2006-07. This equates to vetoes of \$738,364 General Funds in FY 2005-06 and \$369,182 General Funds in FY 2006-07 to State Probation Administration within the Supreme Court. These vetoes still provide for phased-in probation staffing increases of half the amount recommended by the Legislature in FY 2005-06 and three-fourths of the amount recommended by the Legislature in FY 2006-07. After my vetoes, increases remaining above the FY 2004-05 base budget include: \$738,364 General Funds in FY 2005-06 to finance 18 additional probation staff and \$1,107,546 General Funds in FY 2006-07 to finance 27 additional probation staff.

I have vetoed one-fourth of the additional funding provided to the Attorney General's Office for attorney salary equalization. This equates to vetoes of \$53,750 General Funds and \$9,562 Revolving Funds in FY 2005-06 and vetoes of \$53,750 General Funds and \$18,907 Revolving Funds in FY 2006-07. This still leaves \$189,936 in FY 2005-06 and \$217,970 in FY 2006-07 for salary adjustments.

I have vetoed \$408,595 General Funds for both FY 2005-06 and FY 2006-07 to the Department of Correctional Services for increased state spending

on the County Jail Reimbursement Program. I have vetoed such amounts since they equate to a restoration of previous budget reductions. It is important to note that the remaining amount of \$3.5 million does not reduce the current state commitment for county property tax relief. My vetoes for this program simply reinstate the original budget recommendation of the Appropriations Committee.

I have vetoed \$88,850 for both FY 2005-06 and FY 2006-07 of the \$1,777,000 General Fund increase each year to the Department of Education for Early Childhood programs, which were specifically designated for agency operations. This budget still provides for a shift of \$104,859 in funding for this program from aid to operations. The department is fully capable of administering additional grants to new Early Childhood programs without additional administrative resources.

I have reduced the new \$22,000 General Funds provided in FY 2006-07 for support of the Volunteer Service Commission. The commission is encouraged to continue efforts to support its activities with sources of funding other than general funds.

I have reduced the funding increase to the Department of Health and Human Services for child advocacy centers by one-half in FY 2005-06 and one-fourth in FY 2006-07. This equates to vetoes of \$375,000 General Funds in FY 2005-06 and \$187,500 in FY 2006-07. After my vetoes, this provides an increase of \$375,000 in FY 2005-06 and \$562,500 in FY 2006-07. This action phases-in 75% of the increase sought for the operation of the centers.

I have reduced the funding increase to the Department of Health and Human Services -- Finance and Support for aid to community health centers by one-half in FY 2005-06 and one-fourth in FY 2006-07. This equates to vetoes of \$437,500 in FY 2005-06 and \$218,750 in FY 2006-07. After my vetoes, this provides an increase of \$437,500 in FY 2005-06 and \$656,250 in FY 2006-07. This action phases-in 75% of the increase included for the centers. The base amount allocated to each center is reduced by 50%, from \$100,000 to \$50,000, to correspond to the 50% reduction in new funding for FY 2005-06. Next year I will propose increasing the FY 2006-07 base allocation for each center to \$75,000 in order to maintain the same proportion of new funds distributed through the base amount allocation as provided in FY 2005-06.

I have vetoed the increase of \$1,500,000 Cash Funds to the Department of Roads for transit authorities in Lincoln and Omaha in each year of the biennium. The capital requests of these two mass transit systems should not be financed through a State program intended to meet the operational costs of public transportation systems. The Department of Roads can redirect these additional cash funds for road construction.

I have vetoed the \$12,000 increase in General Funds for FY 2006-07 to the Game and Parks Commission designated to provide general fund support for repair and maintenance of the Ferguson House. I have not reduced the

\$12,000 General Funds added for FY 2005-06. This allows funding to remain for the first year of the biennium as a transition until office and event rental revenue accumulate in the Ferguson House Cash Fund created in LB 426 to support repair and maintenance.

I am reducing the increased funding for the Nebraska Scholarship Program by \$1.2 million General Funds in FY 2006-07. After my veto, State support (General Fund and Lottery Fund) for student scholarship funding will increase by \$1,700,000, a 22.0% increase in FY 2005-06 and by \$2,750,000, a 35.6% increase by FY 2006-07.

I have vetoed an addition of \$150,000 in General Fund appropriations to the Department of Economic Development for FY 2005-06, for a Nebraska Treasures Study. I believe this proposal requires further consideration prior to undertaking a financial commitment to this new program.

I appreciate your hard work and urge you to sustain these reductions to LB 425.

Sincerely,  
(Signed) Dave Heineman  
Governor

Attachment

99TH LEGISLATURE, FIRST SESSION (2005)  
Mainline Budget Package  
Governor's Line-Item Vetoes

Ag#	Agency	Prog#	Program	Bill#	Sec.#	Fund	FY06 Veto	FY07 Veto
5	Supreme Court	52	Court Operations	425	14	General	195,238	0
5	Supreme Court	67	Probation	425	15	General	738,364	369,182
5	Supreme Court	67	Probation	425	15	PSL	641,285	320,642
11	Attorney General	507	Interpretation & Application of Law	425	33	General	53,750	53,750
11	Attorney General	507	Interpretation & Application of Law	425	33	Revolving	9,562	18,907
11	Attorney General	507	Interpretation & Application of Law	425	33	PSL	54,988	63,104
13	Education	25	Departmental Administration	425	46	General	88,850	88,850
25	HHS-Services	33	Administration	425	100	General	0	22,000
25	HHS-Services	39	Protection & Safety of Children	425	102	General	375,000	187,500
26	HHS-Finance	502	Public Health Aid	425	117	General	437,500	218,750
27	Roads	305	Local Transit Assistance	425	126	Cash	1,500,000	1,500,000
33	Game and Parks	162	Environmental Trust	425	150	General	0	12,000
46	Correctional Services	750	County Jail Reimbursement	425	172	General	408,595	408,595
48	Postsecondary	690	Nebraska	425	177	General	0	1,200,000

Coord.	Scholarship					
	Program					
72 Economic	618 Visitors Promotion	425	231	General	150,000	0
Development						
				General	2,447,297	2,560,627
				Cash	1,500,000	1,500,000
				Revolving	9,562	18,907
					<u>3,956,859</u>	<u>4,079,534</u>
				PSL	696,273	383,746

GENERAL FILE

LEGISLATIVE BILL 484. Title read. Considered.

Senator Louden withdrew his pending amendment, AM0995, found on page 1047.

Senator Cunningham renewed his pending amendment, AM1250, found on page 1616.

The Cunningham amendment was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 13. Title read. Considered.

The Standing Committee amendment, AM0761, printed separately and referred to on page 999, was considered.

Senator Landis withdrew his pending amendment, AM1009, printed separately and referred to on page 1167.

Senator Chambers withdrew his pending amendment, AM1536, printed separately and referred to on page 1487.

The Standing Committee amendment was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

Senator Landis renewed his pending amendment, AM1671, printed separately and referred to on page 1694.

The Landis amendment was adopted with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 13A.** Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 465.** Title read. Considered.

The Standing Committee amendment, AM0446, found on page 574, was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 761.** Title read. Considered.

The Standing Committee amendment, AM0659, found on page 729, was considered.

Senator Thompson withdrew her pending amendment, AM1309, found on page 1282.

Senator Thompson renewed her pending amendment, AM1644, found on page 1713, to the Standing Committee amendment.

The Thompson amendment was adopted with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 33 ayes, 1 nay, 11 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 227.** Title read. Considered.

The Standing Committee amendment, AM0062, found on page 441, was considered.

Senator Wehrbein renewed his pending amendment, AM0931, found on page 1055, to the Standing Committee amendment.

The Wehrbein amendment was adopted with 33 ayes, 0 nays, 9 present and not voting, and 7 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 31 ayes, 0 nays, 12 present and not

voting, and 6 excused and not voting.

**LEGISLATIVE BILL 256.** Title read. Considered.

The Standing Committee amendment, AM0542, found on page 745, was considered.

Senator Smith withdrew his pending amendments, AM0842 and AM0841, found on pages 917 and 918.

The Standing Committee amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 256A.** Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

**LEGISLATIVE BILL 693.** Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 18 present and not voting, and 6 excused and not voting.

**LEGISLATIVE BILL 557.** Title read. Considered.

The Standing Committee amendment, AM0785, found on page 827, was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 573.** Title read. Considered.

The Standing Committee amendment, AM0091, found on page 562, was considered.

Senator Janssen renewed his pending amendment, AM1189, found on page 1241, to the Standing Committee amendment.

The Janssen amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 343.** Title read. Considered.

The Standing Committee amendment, AM0648, found on page 680, was considered.

Senator Baker renewed his pending amendment, AM1326, printed separately and referred to on page 1372, to the Standing Committee amendment.

### **SENATOR SCHIMEK PRESIDING**

The Baker amendment was adopted with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

### **SELECT COMMITTEE REPORTS** **Enrollment and Review**

#### **Correctly Reengrossed**

The following bill was correctly reengrossed: LB 211A.

#### **Correctly Engrossed**

The following bill was correctly engrossed: LB 28.

ER9042

#### **Enrollment and Review Change to LB 28**

The following changes, required to be reported for publication in the Journal, have been made:

1. In lieu of the Beutler amendment, FA300, on page 4, line 2, "used for Nebraska charitable purposes and" has been inserted after "is"; in line 4 "(a)" has been inserted after "(1)"; in line 6 "(2)" has been struck and "(b)" inserted; and in line 7 "; and

(2) Holds the fund as a permanent endowment fund" has been inserted after "organization".

2. On page 1, the matter beginning with "create" in line 4 through "dates" in line 5 has been struck and "provide an operative date" inserted.

3. On page 6, line 26, the matter beginning with "Sections" through

"become" has been struck and "This act becomes" inserted.

4. On page 7, the matter beginning with "The" in line 1 through line 2 has been struck.

5. Sections 10 and 11 have been renumbered as sections 9 and 10, respectively.

(Signed) Michael Flood, Chairperson

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 761A.** Introduced by Thompson, 14.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 761, Ninety-ninth Legislature, First Session, 2005.

### **AMENDMENTS - Print in Journal**

Senator Foley filed the following amendment to LB 484:  
AM1699

1 1. Insert the following section:  
2 "Section 1. Section 48-310, Reissue Revised Statutes of  
3 Nebraska, is amended to read:  
4 48-310. (1) No person under ~~the age of~~ sixteen years of  
5 age shall be employed or ~~suffered~~ permitted to work in any  
6 employment as defined in section 48-301 more than forty-eight hours  
7 in any one week, nor more than eight hours in any one day, nor  
8 before the hour of 6 in the morning, nor after the hour of 8 in the  
9 evening if the child is under the age of fourteen, nor after the  
10 hour of 10 in the evening if such child is between the ages of  
11 fourteen and sixteen. The person issuing the work certificate may  
12 limit or extend the stated hour in individual cases by endorsement  
13 on the certificate, except a child shall only be permitted to work  
14 after the hour of 10 p.m. if there is no school scheduled for the  
15 following day and, if he or she is between fourteen and sixteen  
16 years of age, he or she has consented to such extension by signing  
17 his or her name on the endorsement extension, and his or her  
18 employer has obtained a special permit from the Department of  
19 Labor. The Department of Labor may issue a special permit to allow  
20 employment of such child beyond 10 p.m. upon being satisfied, after  
21 inspection of the working conditions, of and the safety,  
22 healthfulness, and general welfare to the child of the business  
23 premises. The special permit may be issued for periods not to  
24 exceed ninety days and may be renewed only after reinspection. The  
1 fee for each permit or renewal shall be established by rule and  
2 regulation of the Commissioner of Labor, and all money so collected  
3 by the commissioner shall be remitted to the State Treasurer who

4 shall credit the funds to the General Fund. Every employer shall  
5 post in a conspicuous place in every room where such children are  
6 employed a printed notice stating the hours required of them each  
7 day, the hours of commencing and stopping work, and the time  
8 allowed for meals. The printed form of such notice shall be  
9 furnished by the Department of Labor.

10 (2) Except as provided in subsections (3) and (4) of this  
11 section, no person under sixteen years of age shall be employed or  
12 permitted to work as a door-to-door solicitor.

13 (3) A person under sixteen years of age engaged in the  
14 delivery or distribution of newspapers or shopping news may be  
15 employed or permitted to work as a door-to-door solicitor of  
16 existing customers of such newspapers or shopping news.

17 (4) A person under sixteen years of age is permitted to  
18 work as a door-to-door solicitor if he or she is working on behalf  
19 of his or her own individual entrepreneurial endeavor."

20 2. On page 36, line 12, after "sections" insert  
21 "48-310,".

22 3. Renumber the remaining sections and correct internal  
23 references accordingly.

Senator Mines filed the following amendment to LB 465:  
AM1700

(Amendments to Standing Committee amendments, AM0446)

1 1. Insert the following new sections:  
2 "Section 1. Section 8-1,131, Revised Statutes  
3 Supplement, 2004, is amended to read:  
4 8-1,131. (1) All banks chartered under the laws of  
5 Nebraska are qualified to act as trustee or custodian within the  
6 provisions of the federal Self-Employed Individuals Tax Retirement  
7 Act of 1962, as amended, or under the terms and provisions of  
8 section 408(a) of the Internal Revenue Code, if the provisions of  
9 such retirement plan require the funds of such trust or  
10 custodianship to be invested exclusively in shares or accounts in  
11 the bank or in other banks. If any such retirement plan, within  
12 the judgment of the bank, constitutes a qualified plan under the  
13 federal Self-Employed Individuals Tax Retirement Act of 1962, or  
14 under the terms and provisions of section 408(a) of the Internal  
15 Revenue Code and the regulations promulgated thereunder at the time  
16 the trust was established and accepted by the bank, and is  
17 subsequently determined not to be such a qualified plan or  
18 subsequently ceases to be such a qualified plan, in whole or in  
19 part, the bank may continue to act as trustee of any deposits  
20 theretofore made under such plan and to dispose of the same in  
21 accordance with the directions of the member and beneficiaries  
22 thereof. No bank, in respect to savings made under this  
23 subsection, shall be required to segregate such savings from other  
1 liabilities of the bank. The bank shall keep appropriate records  
2 showing in proper detail all transactions engaged in under the

3 authority of this subsection.

4 (2)(a) All banks chartered under the laws of Nebraska are  
5 qualified to act as trustee or custodian of a medical savings  
6 account created within the provisions of section 220 of the  
7 Internal Revenue Code and a health savings account created within  
8 the provisions of section 223 of the Internal Revenue Code. If any  
9 such medical savings account or health savings account, within the  
10 judgment of the bank, constitutes a medical savings account under  
11 section 220 of the Internal Revenue Code or a health savings  
12 account under section 223 of the Internal Revenue Code and the  
13 regulations promulgated thereunder at the time the trust was  
14 established and accepted by the bank, and is subsequently  
15 determined not to be such a medical savings account or health  
16 savings account, in whole or in part, the bank may continue to act  
17 as trustee of any deposits theretofore made under such plan and to  
18 dispose of the same in accordance with the directions of the  
19 account holder. No bank, in respect to savings made under this  
20 subsection, shall be required to segregate such savings from other  
21 liabilities of the bank. The bank shall keep appropriate records  
22 showing in proper detail all transactions engaged in under the  
23 authority of this subsection.

24 (b) Except for judgments against the medical savings  
25 account holder or health savings account holder or his or her  
26 dependents for qualified medical expenses as defined under section  
27 223(d)(2) of the Internal Revenue Code, funds credited to a medical  
1 savings account or health savings account are not susceptible to  
2 levy, execution, judgment, or other operation of law, garnishment,  
3 or other judicial enforcement and are not an asset or property of  
4 the account holder for purposes of bankruptcy law.

5 Sec. 2. Section 21-1799, Revised Statutes Supplement,  
6 2004, is amended to read:

7 21-1799. (1) All credit unions chartered under the laws  
8 of Nebraska shall be qualified to act as a trustee or custodian  
9 within the provisions of the federal Self-Employed Individuals Tax  
10 Retirement Act of 1962 or under the terms and provisions of section  
11 408(a) of the Internal Revenue Code if the provisions of such  
12 retirement plan require the funds of such trust or custodianship to  
13 be invested exclusively in shares or accounts in the credit union  
14 or other credit unions.

15 (2) All credit unions chartered under the laws of  
16 Nebraska are qualified to act as trustee or custodian of a medical  
17 savings account created within the provisions of section 220 of the  
18 Internal Revenue Code and a health savings account created within  
19 the provisions of section 223 of the Internal Revenue Code. Except  
20 for judgments against the medical savings account holder or health  
21 savings account holder or his or her dependents for qualified  
22 medical expenses as defined under section 223(d)(2) of the Internal  
23 Revenue Code, funds credited to a medical savings account or health  
24 savings account are not susceptible to levy, execution, judgment,

25 or other operation of law, garnishment, or other judicial  
26 enforcement and are not an asset or property of the account holder  
27 for purposes of bankruptcy law.

1 (3) All credit unions chartered under the laws of  
2 Nebraska are qualified to act as trustee or custodian of an  
3 education individual retirement account created within the  
4 provisions of section 530 of the Internal Revenue Code.

5 (4) All credit unions chartered under the laws of  
6 Nebraska are qualified to act as trustee or custodian of a Roth IRA  
7 created within the provisions of section 408A of the Internal  
8 Revenue Code.

9 (5) If any such plan, in the judgment of the credit  
10 union, constitutes a qualified plan under the federal Self-Employed  
11 Individuals Tax Retirement Act of 1962, or under the terms and  
12 provisions of section 220, 408(a), 408A, or 530 of the Internal  
13 Revenue Code, and the regulations promulgated thereunder at the  
14 time the trust was established and accepted by the credit union is  
15 subsequently determined not to be such a qualified plan, or  
16 subsequently ceases to be such a qualified plan, in whole or in  
17 part, the credit union may continue to act as trustee of any  
18 deposits which have been made under such plan and to dispose of  
19 such deposits in accordance with the directions of the member and  
20 beneficiaries thereof.

21 (6) No credit union, with respect to savings made under  
22 this section, shall be required to segregate such savings from  
23 other assets of the credit union, but the credit union shall keep  
24 appropriate records showing in detail all transactions engaged in  
25 pursuant to this section."

26 2. On page 6, line 10, after the comma insert "and  
27 sections 8-1,131 and 21-1799, Revised Statutes Supplement, 2004,".

1 3. Renumber the remaining sections accordingly.

Senator Landis filed the following amendment to LB 13A:  
AM1685

1 1. Strike the original sections and insert the following  
2 new sections:

3 "Section 1. There is hereby appropriated (1) \$75,857  
4 from the Compensation Court Cash Fund for FY2005-06 and (2) \$73,650  
5 from the Compensation Court Cash Fund for FY2006-07 to the Nebraska  
6 Workers' Compensation Court, for Program 530, to aid in carrying  
7 out the provisions of Legislative Bill 13, Ninety-ninth  
8 Legislature, First Session, 2005.

9 No expenditures for permanent and temporary salaries and  
10 per diems for state employees shall be made from funds appropriated  
11 in this section.

12 Sec. 2. There is hereby appropriated (1) \$75,857 from  
13 the Department of Justice Revolving Fund for FY2005-06 and (2)  
14 \$73,650 from the Department of Justice Revolving Fund for FY2006-07  
15 to the Attorney General, for Program 507, to aid in carrying out

16 the provisions of Legislative Bill 13, Ninety-ninth Legislature,  
17 First Session, 2005.

18 Total expenditures for permanent and temporary salaries  
19 and per diems from funds appropriated in this section shall not  
20 exceed \$55,000 for FY2005-06 or \$56,650 for FY2006-07.".

### **SELECT FILE**

**LEGISLATIVE BILL 40.** The Redfield pending amendment, AM1666, found on page 1678 and considered in this day's Journal, was renewed.

Senator Redfield withdrew her amendment.

Senator Preister renewed his pending amendment, AM1693, found on page 1711.

The Preister amendment was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Senator Smith offered the following amendment:

FA303

Page 2, line 7 strike "twenty-five cents"

Pending.

**LEGISLATIVE BILL 114.** Senator Byars renewed his pending amendment, AM1480, found on page 1678.

The Byars amendment was adopted with 25 ayes, 0 nays, 21 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

### **SELECT COMMITTEE REPORT Enrollment and Review**

#### **Correctly Engrossed**

The following resolution was correctly engrossed: LR 12CA.

(Signed) Michael Flood, Chairperson

### **AMENDMENTS - Print in Journal**

Senators McDonald and Wehrbein filed the following amendment to  
LB 332A:

AM1697

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:

3 "Section 1. There is hereby appropriated (1) \$225,000  
 4 from the Nebraska Health Care Cash Fund for FY2005-06 and (2)  
 5 \$225,000 from the Nebraska Health Care Cash Fund for FY2006-07 to  
 6 the Department of Health and Human Services Finance and Support,  
 7 for Program 38, to aid in carrying out the provisions of  
 8 Legislative Bill 332, Ninety-ninth Legislature, First Session,  
 9 2005.  
 10 No expenditures for permanent and temporary salaries and  
 11 per diems for state employees shall be made from funds appropriated  
 12 in this section.  
 13 Sec. 2. There is hereby appropriated (1) \$25,000 from  
 14 the Nebraska Health Care Cash Fund for FY2005-06 and (2) \$25,000  
 15 from the Nebraska Health Care Cash Fund for FY2006-07 to the  
 16 Department of Health and Human Services, for Program 33, to aid in  
 17 carrying out the provisions of Legislative Bill 332, Ninety-ninth  
 18 Legislature, First Session, 2005.  
 19 Total expenditures for permanent and temporary salaries  
 20 and per diems from funds appropriated in this section shall not  
 21 exceed \$22,500 for FY2005-06 or \$22,500 for FY2006-07.  
 22 Sec. 3. Since an emergency exists, this act takes effect  
 23 when passed and approved according to law."

Senator Raikes filed the following amendment to LB 577:  
 AM1575

(Amendments to Standing Committee amendments, AM1510)

1 1. On page 4, line 7, after "calculation" insert "for  
 2 the local system"; in line 9 after "membership" insert "for the  
 3 first time or"; in line 10 strike "receiving" through "is"; in line  
 4 15 strike "such"; strike line 16 through "measured" in line 18 and  
 5 insert "childhood education programs if students are included in  
 6 the local system's qualified early childhood education fall  
 7 membership for the first time"; in lines 19 and 21 strike "program"  
 8 and insert "programs"; in line 22 strike the first "the" and insert  
 9 "a"; and in line 27 strike "2005-06" and insert "2006-07".  
 10 2. On page 5, line 4, strike "2005" and insert "2006";  
 11 in line 7 strike beginning with "strike" through the last quotation  
 12 mark and insert "strike 'actual' and insert 'planned'"; in line 26  
 13 after the first "for" insert "(i) continuation grants for programs  
 14 that received grants in the prior school fiscal year and for which  
 15 the state aid calculation pursuant to the Tax Equity and  
 16 Educational Opportunities Support Act does not include early  
 17 childhood education students, in an amount equal to the amount of  
 18 such grant, except that if the grant was a first-year grant the  
 19 amount shall be reduced by thirty-three percent, and (ii)"; and  
 20 strike beginning with "that" in line 26 through "2005-06" in line  
 21 27 and insert "for which the state aid calculation pursuant to the  
 22 act includes early childhood education students".  
 23 3. On page 6, line 1, after "for" insert "the" and  
 1 strike "2005-06" and insert "prior to the first school fiscal year

2 for which early childhood education students were included in the  
3 state aid calculation for the school district's local system"; in  
4 line 4 after "district's" insert "local system"; and in line 5  
5 strike "program" and insert "programs".  
6 4. On page 7, line 2, strike "year" and insert "fiscal  
7 years prior to"; in lines 6 and 7 strike "2006-07" and insert  
8 "2005-06"; and in line 7 after "school" insert "fiscal".

### VISITORS

Visitors to the Chamber were 26 fourth-grade students and teacher from Hitchcock Elementary School, Omaha; and 12 kindergarten through tenth-grade students and teachers from Southeast Nebraska Home School Association.

The Doctor of the Day was Dr. Jeffrey Harrison from Omaha.

### ADJOURNMENT

At 4:56 p.m., on a motion by Senator Combs, the Legislature adjourned until 9:00 a.m., Wednesday, May 25, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**EIGHTY-FIFTH DAY - MAY 25, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****EIGHTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, May 25, 2005

**PRAYER**

The prayer was offered by Senator Kruse.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brown, Burling, Combs, Cornett, Cunningham, Fischer, Landis, Langemeier, Dw. Pedersen, D. Pederson, and Schimek who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-fourth day was approved.

**GENERAL FILE**

**LEGISLATIVE BILL 761A.** Title read. Considered.

Advanced to E & R for review with 27 ayes, 0 nays, 11 present and not voting, and 11 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 28A.** Senator Connealy renewed his pending amendment, FA301, found on page 1715.

The Connealy amendment was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 126A.** Senator Heidemann offered the following amendment:

AM1719

- 1 1. On page 2, line 1, strike "\$650,000" and insert
- 2 "\$450,000".

Senator Heidemann moved for a call of the house. The motion prevailed with 23 ayes, 1 nay, and 25 not voting.

The Heidemann amendment lost with 13 ayes, 23 nays, 11 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for engrossment.

### **MOTION - Return LB 312 to Select File**

Senator Beutler moved to return LB 312 to Select File for the following specific amendment:

AM1723

(Amendments to Final Reading copy)

- 1 1. On page 15, lines 15 and 19, strike "Sales" and
- 2 insert "Commencing January 1, 2008, sales".

Senator Beutler requested a roll call vote on his motion to return.

Voting in the affirmative, 8:

Beutler	Howard	Louden	Raikes
Chambers	Kopplin	Price	Schimek

Voting in the negative, 36:

Aguilar	Cornett	Friend	Langemeier	Stuhr
Baker	Cudaback	Heidemann	McDonald	Stuthman
Bourne	Cunningham	Hudkins	Mines	Thompson
Brashear	Engel	Janssen	Pahls	Wehrbein
Brown	Erdman	Jensen	Pederson, D.	
Burling	Fischer	Johnson	Redfield	
Byars	Flood	Kremer	Schrock	
Connealy	Foley	Landis	Smith	

Present and not voting, 4:

Combs	Kruse	Preister	Synowiecki
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Excused and not voting, 1:

Pedersen, Dw.

The Beutler motion to return failed with 8 ayes, 36 nays, 4 present and not voting, and 1 excused and not voting.

## **BILLS ON FINAL READING**

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 312 with 35 ayes, 6 nays, 7 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 312.**

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 49-801.01, 66-1349, 77-202, 77-1229, 77-2711, 77-2715.07, 77-2717, 77-27,119, 77-27,187 to 77-27,188, 77-27,194 to 77-27,195, and 77-4109, Reissue Revised Statutes of Nebraska, and sections 66-1344, 77-2701, 77-2701.04, 77-2734.03, and 77-5536, Revised Statutes Supplement, 2004; to provide for and change provisions relating to tax incentives, credits, refunds, and exemptions; to rename the Employment Expansion and Investment Incentive Act; to adopt the Nebraska Advantage Act, the Nebraska Advantage Research and Development Act, and the Nebraska Advantage Microenterprise Tax Credit Act; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Aguilar	Connealy	Friend	Kruse	Price
Baker	Cornett	Heidemann	Landis	Redfield
Beutler	Cudaback	Howard	Langemeier	Schrock
Bourne	Cunningham	Hudkins	Louden	Smith
Brashear	Engel	Janssen	McDonald	Stuhr
Brown	Erdman	Jensen	Mines	Stuthman
Burling	Fischer	Johnson	Pahls	Synowiecki
Byars	Flood	Kopplin	Pederson, D.	Thompson
Combs	Foley	Kremer	Preister	Wehrbein

Voting in the negative, 3:

Chambers	Raikes	Schimek
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Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 312A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 312, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Cornett	Howard	Louden	Smith
Baker	Cudaback	Hudkins	McDonald	Stuhr
Beutler	Cunningham	Janssen	Mines	Stuthman
Bourne	Engel	Jensen	Pahls	Synowiecki
Brashear	Erdman	Johnson	Pederson, D.	Thompson
Brown	Fischer	Kopplin	Preister	Wehrbein
Burling	Flood	Kremer	Price	
Byars	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	
Connealy	Heidemann	Langemeier	Schrock	

Voting in the negative, 1:

Chambers

Present and not voting, 1:

Schimek

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 90 with 36 ayes, 5 nays, 7 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 90.** With Emergency.

A BILL FOR AN ACT relating to economic development; to amend sections 58-202, 58-242, and 66-1345.04, Reissue Revised Statutes of Nebraska, and section 66-1345.01, Revised Statutes Supplement, 2004; to adopt the Building Entrepreneurial Communities Act; to reenact the Agricultural Opportunities and Value-Added Partnerships Act; to provide termination dates; to modify provisions involving agricultural projects under the Nebraska Investment Finance Authority Act; to eliminate an obsolete provision; to change the tax rate on corn and grain sorghum and legislative intent regarding appropriations to the Ethanol Production Incentive Cash Fund; to repeal the original sections; to outright repeal sections 2-5401 to 2-5412 and 90-527, Revised Statutes Supplement, 2004; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 46:

Aguilar	Cornett	Howard	Louden	Smith
Baker	Cudaback	Hudkins	McDonald	Stuhr
Beutler	Cunningham	Janssen	Mines	Stuthman
Bourne	Engel	Jensen	Pahls	Synowiecki
Brashear	Erdman	Johnson	Pederson, D.	Thompson
Brown	Fischer	Kopplin	Preister	Wehrbein
Burling	Flood	Kremer	Price	
Byars	Foley	Kruse	Redfield	
Combs	Friend	Landis	Schimek	
Connealy	Heidemann	Langemeier	Schrock	

Voting in the negative, 2:

Chambers      Raikes

Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**MOTION - Return 90A to Select File**

Senator Chambers moved to return 90A to Select File for the following specific amendment:

FA304

Strike the enacting clause.

Senator Chambers withdrew his motion to return.

**BILL ON FINAL READING****LEGISLATIVE BILL 90A.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 90, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Aguilar	Cornett	Heidemann	Langemeier	Redfield
Baker	Cudaback	Howard	Louden	Schimek
Beutler	Cunningham	Hudkins	McDonald	Schrock
Bourne	Engel	Janssen	Mines	Smith
Brashear	Erdman	Jensen	Pahls	Stuhr
Burling	Fischer	Johnson	Pederson, D.	Stuthman
Byars	Flood	Kopplin	Preister	Synowiecki
Combs	Foley	Kremer	Price	Thompson
Connealy	Friend	Landis	Raikes	Wehrbein

Voting in the negative, 1:

Chambers

Present and not voting, 2:

Brown              Kruse

Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**SPEAKER BRASHEAR PRESIDING****RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 123, 124, 125, 126, 127, 128, 129, 130,

131, 132, and 133 were adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, and 133.

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 312, 312A, 90, and 90A.

### **STANDING COMMITTEE REPORT**

#### **Agriculture**

The Agriculture Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Greg Ibach - Department of Agriculture

VOTE: Aye: Senators Kremer, Wehrbein, Preister, Burling, Cunningham, Erdman, Fischer. Nay: None. Absent: Senator Chambers.

(Signed) Bob Kremer, Chairperson

### **RESOLUTION**

#### **LEGISLATIVE RESOLUTION 235.** Introduced by Heidemann, 1.

WHEREAS, the Pawnee City High School Girls Track Team won the Class D State Championship; and

WHEREAS, Dani Burgess qualified for state competition, and placed 3rd in the 3200 meter relay at the state meet; and

WHEREAS, Heather Blecha qualified for state competition, and placed 4th in the 1600 meter relay at the state meet; and

WHEREAS, Alicia Marteney qualified for state competition and placed 3rd in the 3200 meter relay, 3rd in the 3200 meter run, 2nd in the 1600 meter run and 4th in the 1600 meter relay at the state meet; and

WHEREAS, Samantha Musil qualified for state competition and placed 3rd in the 3200 meter relay, 1st in shot put, and 1st in discus at the state meet; and

WHEREAS, Michelle Habegger qualified for state competition and placed 1st in triple jump, 2nd in the 100 meter hurdles, 3rd in long jump, and 4th in the 1600 meter relay at the state meet; and

WHEREAS, Jessie McAferty qualified for state competition and placed 3rd in the 3200 meter relay and 4th in the 1600 meter relay at the state meet; and

WHEREAS, the Pawnee City High School Girls Track Team had a undefeated season; and

WHEREAS, outstanding individual athletes, as well as the entire track team, should be recognized for their excellent track season; and

WHEREAS, we should continue to recognize the achievements of our young people in all positive areas of endeavor.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That Jayme Droge, Brooke Burgess, Dani Burgess, Samantha Johnson, Skylar Leatherman, Courtney Smith, Heather Blecha, Shannon Friedly, Laurel Sunneberg, Alicia Marteney, Kyla Gyhra, Samantha Musil, Mary Zelenka, Michelle Habegger, Jessie McAferty, and Clare Voigtlander be congratulated on their undefeated season and for their achievement in claiming the Class D Girls Track State Champion Title.

2. That coaches Alan Strong, Mark Leonard, Candy Sejkora, and Bud Pettlgrew be applauded for their efforts in teaching and providing guidance to the young women on the track team.

3. That a copy of this resolution be sent to Head Coach Alan Strong.

Laid over.

### SELECT COMMITTEE REPORTS Enrollment and Review

**LEGISLATIVE BILL 538.** Placed on Select File as amended.  
E & R amendment to LB 538:

AM7106

1 1. In the Standing Committee amendments, AM1650:  
2 a. On page 6, line 22, strike "Has" and insert "Have";  
3 and  
4 b. On page 10, line 16, after "fee" insert "described in  
5 subdivision (3)(a) of this section"; and in lines 17 and 18 strike  
6 "subdivisions" through "(c)" and insert "subdivision (3)(c)".  
7 2. On page 1, strike beginning with "28-439" in line 1  
8 through line 4 and insert "28-929, 28-930, 47-621 to 47-625,  
9 47-627, 47-630, 47-632, 71-1,148, and"; strike lines 6 and 7 and  
10 insert "sections 28-931, 29-2246, 29-2252, 29-2257, 29-2258,  
11 29-2262.06, 29-2269, 81-1423, 81-1425, 83-1,102,"; in line 9 strike  
12 "penalties for" and insert "offenses relating to" and after the  
13 second "change" insert "and eliminate"; strike beginning with  
14 "forfeiture" in line 10 through the first comma in line 11; in line  
15 14 strike "and"; and in line 15 after "sections" insert "; and to  
16 outright repeal section 47-626, Reissue Revised Statutes of  
17 Nebraska".

**LEGISLATIVE BILL 538A.** Placed on Select File.

**LEGISLATIVE BILL 484.** Placed on Select File as amended.  
E & R amendment to LB 484:

AM7112

1 1. On page 8, line 2, strike the new matter and

2 reinstate the stricken matter.

3 2. On page 27, line 4, strike beginning with  
4 "Commencing" through "the", show as stricken, and insert "The"; and  
5 in line 5 strike "in" and show as stricken and strike "December,  
6 for", show the old matter as stricken, and insert "by December 1  
7 of".

8 3. On page 34, line 7, strike "that".

(Signed) Michael Flood, Chairperson

## GENERAL FILE

**LEGISLATIVE BILL 577.** Title read. Considered.

## SENATOR JANSSEN PRESIDING

The Standing Committee amendment, AM1510, found on page 1476, was considered.

Senator Raikes withdrew his pending amendment, AM1575, found on page 1745.

Senator Raikes offered the following amendment to the Standing Committee amendment:

AM1720

(Amendments to Standing Committee amendments, AM1510)

1 1. On page 4, line 6, strike "local system's" and insert  
2 "district's"; in line 7 after "calculation" insert "for the local  
3 system"; in line 9 after "membership" insert "for the first time  
4 or"; in line 10 strike "receiving" through "is"; in line 15 strike  
5 "such"; strike line 16 through "measured" in line 18 and insert  
6 "childhood education programs if students are included in the local  
7 system's qualified early childhood education fall membership for  
8 the first time"; in lines 19 and 21 strike "program" and insert  
9 "programs"; in line 22 strike the first "the" and insert "a"; and  
10 in line 27 strike "2005-06" and insert "2006-07".  
11 2. On page 5, line 4, strike "2005" and insert "2006";  
12 in line 7 strike beginning with "strike" through the last quotation  
13 mark and insert "strike 'actual' and insert 'planned'"; in line 26  
14 after the first "for" insert "(i) continuation grants for programs  
15 that received grants in the prior school fiscal year and for which  
16 the state aid calculation pursuant to the Tax Equity and  
17 Educational Opportunities Support Act does not include early  
18 childhood education students, in an amount equal to the amount of  
19 such grant, except that if the grant was a first-year grant the  
20 amount shall be reduced by thirty-three percent, and (ii)"; and  
21 strike beginning with "that" in line 26 through "2005-06" in line  
22 27 and insert "for which the state aid calculation pursuant to the  
23 act includes early childhood education students.".

- 1 3. On page 6, line 1, after "for" insert "the" and  
 2 strike "2005-06" and insert "prior to the first school fiscal year  
 3 for which early childhood education students were included in the  
 4 state aid calculation for the school district's local system"; in  
 5 line 4 after "district's" insert "local system"; and in line 5  
 6 strike "program" and insert "programs".  
 7 4. On page 7, line 2, strike "year" and insert "fiscal  
 8 years prior to"; in lines 6 and 7 strike "2006-07" and insert  
 9 "2005-06"; and in line 7 after "school" insert "fiscal".

## SENATOR CUDABACK PRESIDING

The Raikes amendment was adopted with 28 ayes, 0 nays, and 21 present and not voting.

The Standing Committee amendment, as amended, was adopted with 28 ayes, 0 nays, and 21 present and not voting.

Advanced to E & R for review with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

## SELECT FILE

**LEGISLATIVE BILL 713.** E & R amendment, AM7102, printed separately and referred to on page 1667, was adopted.

Senator Bourne offered the following amendment:  
 AM1683

(Amendments to E & R amendments, AM7102)

- 1 1. On page 4, after line 4 insert the following new  
 2 subsection:  
 3 "(11) The changes made to this section by this  
 4 legislative bill shall apply to offenses committed prior to the  
 5 effective date of this act for which the statute of limitations has  
 6 not expired as of such date and to offenses committed on or after  
 7 such date.".  
 8 2. On page 12, line 18, strike "or" and insert an  
 9 underscored comma; in line 19 after "volunteer" insert ",  
 10 licensure, or certification"; in line 20 after "(3)" insert  
 11 "Information may be disclosed to health care providers who serve  
 12 children or vulnerable adults for the purpose of conducting  
 13 confidential background checks for employment;  
 14 (4)"; and in line 23 strike "(4)", show as stricken, and  
 15 insert "(5)".  
 16 3. On page 13, line 1, strike "Release", show as  
 17 stricken, and insert  
 18 "The release", strike "such" and show as stricken, and  
 19 after "information" insert "authorized by this section"; and in  
 20 line 11 strike the new matter and strike "(4) of" and show as

21 stricken.

The Bourne amendment was adopted with 25 ayes, 0 nays, 22 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 146.** E & R amendment, AM7104, found on page 1695, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 146A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 332.** E & R amendment, AM7105, found on page 1724, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 332A.** Senator McDonald renewed the McDonald-Wehrbein pending amendment, AM1697, found on page 1744.

The McDonald-Wehrbein amendment was adopted with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 40.** Senator Smith withdrew his pending amendment, FA303, found on page 1744.

Senators Redfield, Bourne, and Flood offered the following amendment:  
AM1730

(Amendments to AM1227)

- 1 1. Insert the following new section:
- 2 "Sec. 3. Section 58-708, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 58-708. (1) During each calendar year in which funds are
- 5 available from the Affordable Housing Trust Fund for use by the
- 6 Department of Economic Development, the department shall allocate a
- 7 specific amount of funds, not less than twenty-five percent, to
- 8 each congressional district. Entitlement area funds allocated
- 9 under this section that are not awarded to an eligible project from
- 10 within the entitlement area within one year shall be made available
- 11 for distribution to eligible projects elsewhere in the state. The
- 12 department shall announce a grant and loan application period of at
- 13 least ninety days duration for all nonentitlement areas. In
- 14 selecting projects to receive trust fund assistance, the department
- 15 shall develop a qualified allocation plan and give first priority

16 to financially viable projects that serve the lowest income  
17 occupants for the longest period of time. The qualified allocation  
18 plan shall:

19 (a) Set forth selection criteria to be used to determine  
20 housing priorities of the housing trust fund which are appropriate  
21 to local conditions, including the community's immediate need for  
22 affordable housing, proposed increases in home ownership, private  
23 dollars leveraged, level of local government support and

1 participation, and repayment, in part or in whole, of financial  
2 assistance awarded by the fund; and

3 (b) Give first priority in allocating trust fund  
4 assistance among selected projects to those projects which serve  
5 the lowest income occupant and are obligated to serve qualified  
6 occupants for the longest period of time.

7 (2) The department shall fund in order of priority as  
8 many applications as will utilize available funds less actual  
9 administrative costs of the department in administering the  
10 program. In administering the program the department may contract  
11 for services or directly provide funds to other governmental  
12 entities or instrumentalities."

13 2. On page 10, line 5, after the second comma insert  
14 "58-708,".

15 3. Renumber the remaining sections accordingly.

The Redfield et al. amendment was adopted with 29 ayes, 5 nays, 14 present and not voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 40A.** E & R amendment, AM7090, found on page 1328, was adopted.

Senator Preister renewed his pending amendment, AM1692, found on page 1713.

The Preister amendment was adopted with 26 ayes, 6 nays, 16 present and not voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

### PRESENTED TO THE GOVERNOR

Presented to the Governor on May 25, 2005, at 10:30 a.m. were the following: LBs 312, 312A, 90e, and 90Ae.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**APPROPRIATIONS COMMITTEE REPORT  
ON LB 425**

Pursuant to Rule 6, Section 14, the Appropriations Committee has examined the Governor's line-item vetoes contained in LB 425.

The Appropriations Committee makes no recommendation with respect to line-item vetoes contained in LB 425.

(Signed) Don Pederson, Chair  
Appropriations Committee

**RESOLUTION**

**LEGISLATIVE RESOLUTION 236.** Introduced by Burling, 33.

WHEREAS, less than four percent of the boys in the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Zachary Sealey has demonstrated a strong commitment to the community of Hastings, Nebraska, through service projects and volunteer hours; and

WHEREAS, Zachary has demonstrated diligence in his pursuit to attain the honorary status of Eagle Scout; and

WHEREAS, Zachary has earned and deserves the honor of being named "An Eagle Scout".

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature commends Zachary Sealey for his outstanding accomplishment of becoming an Eagle Scout.
2. That a copy of this resolution be sent to Zachary Sealey.

Laid over.

**STANDING COMMITTEE REPORTS  
Government, Military and Veterans Affairs**

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Mike Behm - Nebraska Commission on Law Enforcement and Criminal Justice

VOTE: Aye: Senators Burling, Fischer, Langemeier, Pahls, Schimek, Wehrbein. Nay: None. Absent: Senators Brown, Mines.

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests

the appointment(s) be confirmed by the Legislature and suggests a record vote.

Bryan Tuma - Nebraska State Patrol

VOTE: Aye: Senators Burling, Fischer, Langemeier, Pahls, Schimek, Wehrbein. Nay: None. Absent: Senators Brown, Mines.

(Signed) DiAnna R. Schimek, Chairperson

### AMENDMENTS - Print in Journal

Senator Connealy filed the following amendment to LB 645:  
AM1722

(Amendments to the Brashear, et al. amendment, AM1334)

- 1 1. On page 3, line 6, strike "or wholesale".
- 2 2. On page 2, strike lines 6 through 9; and in line 10
- 3 strike "(3)" and insert "(2)".

Senators Mines and Beutler filed the following amendment to LB 589:  
AM1707

(Amendments to Standing Committee amendments, AM0743)

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. The Legislature finds that (1) the
- 4 Department of Health and Human Services and the Department of
- 5 Health and Human Services Finance and Support rely on health
- 6 insurance and claims information from private insurers to ensure
- 7 accuracy in processing state benefit program payments to providers
- 8 and in verifying individual recipients' eligibility, (2) delay or
- 9 refusal to provide such information causes unnecessary expenditures
- 10 of state funds, (3) disclosure of such information to the
- 11 Department of Health and Human Services and the Department of
- 12 Health and Human Services Finance and Support is permitted pursuant
- 13 to the federal Health Insurance Portability and Accountability
- 14 privacy rules under 45 C.F.R. part 164, and (4) for medical
- 15 assistance program recipients who also have other insurance
- 16 coverage, including coverage by licensed and self-funded insurers,
- 17 the Department of Health and Human Services Finance and Support is
- 18 required by 42 U.S.C. 1396a(a)(25) to assure that licensed and
- 19 self-funded insurers coordinate benefits with the program.
- 20 Sec. 2. For purposes of sections 1 to 8 of this act:
- 21 (1) Coordinate benefits means:
- 22 (a) Provide to the Department of Health and Human
- 23 Services or the Department of Health and Human Services Finance and
- 1 Support information regarding the licensed insurer's or self-funded
- 2 insurer's existing coverage for an individual who is eligible for a
- 3 state benefit program; and
- 4 (b) Meet payment obligations;

- 5 (2) Coverage information means health information  
6 possessed by a licensed insurer or self-funded insurer that is  
7 limited to the following information about an individual:  
8 (a) Eligibility for coverage under a health plan;  
9 (b) Coverage of health care under the health plan; or  
10 (c) Benefits and payments associated with the health  
11 plan;  
12 (3) Health plan means any policy of insurance issued by a  
13 licensed insurer or any employee benefit plan offered by a  
14 self-funded insurer that provides for payment to or on behalf of an  
15 individual as a result of an illness, disability, or injury or  
16 change in a health condition;  
17 (4) Individual means a person covered by a state benefit  
18 program, including the medical assistance program established under  
19 sections 68-1018 to 68-1025, or a person applying for such  
20 coverage;  
21 (5) Licensed insurer means any insurer, except a  
22 self-funded insurer, including a fraternal benefit society,  
23 producer, or other person licensed or required to be licensed,  
24 authorized or required to be authorized, or registered or required  
25 to be registered pursuant to the insurance laws of the state; and  
26 (6) Self-funded insurer means any employer or union who  
27 provides a self-funded employee benefit plan.
- 1 Sec. 3. (1) Except as provided in subsection (2) of this  
2 section, at the request of the Department of Health and Human  
3 Services or the Department of Health and Human Services Finance and  
4 Support, a licensed insurer or a self-funded insurer shall provide  
5 coverage information to the requesting department without an  
6 individual's authorization for purposes of:  
7 (a) Determining an individual's eligibility for state  
8 benefit programs, including the medical assistance program  
9 established under sections 68-1018 to 68-1025; or  
10 (b) Coordinating benefits with state benefit programs.  
11 Such information shall be provided within thirty days  
12 after the date of request unless good cause is shown. Requests for  
13 coverage information shall specify individual recipients for whom  
14 information is being requested.  
15 (2)(a) Coverage information requested pursuant to  
16 subsection (1) of this section regarding a limited benefit policy  
17 shall be limited to whether a specified individual has coverage  
18 and, if so, a description of that coverage, and such information  
19 shall be used solely for the purposes of subdivision (1)(a) of this  
20 section.  
21 (b) For purposes of this section, limited benefit policy  
22 means a policy of insurance issued by a licensed insurer that  
23 consists only of one or more, or any combination of the following:  
24 (i) Coverage only for accident or disability income  
25 insurance, or any combination thereof;  
26 (ii) Coverage for specified disease or illness; or

27 (iii) Hospital indemnity or other fixed indemnity1 insurance.2 Sec. 4. Any violation of section 3 of this act by a3 licensed insurer shall be subject to the Unfair Insurance Claims4 Settlement Practices Act.5 Sec. 5. The Department of Health and Human Services6 Finance and Support may impose and collect a civil penalty on a7 self-funded insurer who violates the requirements of section 3 of8 this act if the department finds that the self-funded insurer:9 (1) Committed the violation flagrantly and in conscious10 disregard of the requirements; or11 (2) Has committed violations with such frequency as to12 indicate a general business practice to engage in that type of13 conduct.14 The civil penalty shall not be more than one thousand15 dollars for each violation, not to exceed an aggregate penalty of16 thirty thousand dollars, unless the violation by the self-funded17 insurer was committed flagrantly and in conscious disregard of18 section 3 of this act, in which case the penalty shall not be more19 than fifteen thousand dollars for each violation, not to exceed an20 aggregate penalty of one hundred fifty thousand dollars.21 Sec. 6. The Department of Health and Human Services22 Finance and Support is authorized to recover all amounts paid or to23 be paid to state benefit programs as a result of failure to24 coordinate benefits by a licensed insurer or a self-funded insurer.25 If at the time the department pursues recovery, the licensed26 insurer or self-funded insurer has already made any payment, the27 department may pursue recovery of that payment only from the party1 who received it. Any amount recovered shall be returned to the2 fund of the program from which the expenditure was made.3 Sec. 7. The Department of Health and Human Services4 Finance and Support shall establish a process by rule and5 regulation for resolving any violation by a self-funded insurer of6 section 3 of this act and for assessing the financial penalties7 contained in section 5 of this act. Any appeal of an action by the8 department under such policies shall be in accordance with the9 Administrative Procedure Act.10 Sec. 8. All money collected as a civil penalty under11 section 4 or 5 of this act shall be remitted to the State Treasurer12 for distribution in accordance with Article VII, section 5, of the13 Constitution of Nebraska.14 Sec. 9. Section 44-1540, Reissue Revised Statutes of15 Nebraska, is amended to read:16 44-1540. Any of the following acts or practices by an17 insurer, if committed in violation of section 44-1539, shall be an18 unfair claims settlement practice:19 (1) Knowingly misrepresenting to claimants and insureds20 relevant facts or policy provisions relating to coverages at issue;21 (2) Failing to acknowledge with reasonable promptness

22 pertinent communications with respect to claims arising under its  
23 policies;

24 (3) Failing to adopt and implement reasonable standards  
25 for the prompt investigation and settlement of claims arising under  
26 its policies;

27 (4) Not attempting in good faith to effectuate prompt,  
1 fair, and equitable settlement of claims submitted in which  
2 liability has become reasonably clear;

3 (5) Not attempting in good faith to effectuate prompt,  
4 fair, and equitable settlement of property and casualty claims (a)  
5 in which coverage and the amount of the loss are reasonably clear  
6 and (b) for loss of tangible personal property within real property  
7 which is insured by a policy subject to section 44-501.02 and which  
8 is wholly destroyed by fire, tornado, windstorm, lightning, or  
9 explosion;

10 (6) Compelling insureds or beneficiaries to institute  
11 litigation to recover amounts due under its policies by offering  
12 substantially less than the amounts ultimately recovered in  
13 litigation brought by them;

14 (7) Refusing to pay claims without conducting a  
15 reasonable investigation;

16 (8) Failing to affirm or deny coverage of a claim within  
17 a reasonable time after having completed its investigation related  
18 to such claim;

19 (9) Attempting to settle a claim for less than the amount  
20 to which a reasonable person would believe the insured or  
21 beneficiary was entitled by reference to written or printed  
22 advertising material accompanying or made part of an application;

23 (10) Attempting to settle claims on the basis of an  
24 application which was materially altered without notice to or  
25 knowledge or consent of the insured;

26 (11) Making a claims payment to an insured or beneficiary  
27 without indicating the coverage under which each payment is being  
1 made;

2 (12) Unreasonably delaying the investigation or payment  
3 of claims by requiring both a formal proof-of-loss form and  
4 subsequent verification that would result in duplication of  
5 information and verification appearing in the formal proof-of-loss  
6 form;

7 (13) Failing, in the case of the denial of a claim or the  
8 offer of a compromise settlement, to promptly provide a reasonable  
9 and accurate explanation of the basis for such action;

10 (14) Failing to provide forms necessary to present claims  
11 with reasonable explanations regarding their use within fifteen  
12 working days of a request;

13 (15) Failing to adopt and implement reasonable standards  
14 to assure that the repairs of a repairer owned by or affiliated  
15 with the insurer are performed in a skillful manner. For purposes  
16 of this subdivision, a repairer is affiliated with the insurer if

17 there is a preexisting arrangement, understanding, agreement, or  
18 contract between the insurer and repairer for services in  
19 connection with claims on policies issued by the insurer; ~~and~~  
20 (16) Requiring the insured or claimant to use a  
21 particular company or location for motor vehicle repair. Nothing  
22 in this subdivision shall prohibit an insurer from entering into  
23 discount agreements with companies and locations for motor vehicle  
24 repair or otherwise entering into any business arrangements or  
25 affiliations which reduce the cost of motor vehicle repair if the  
26 insured or claimant has the right to use a particular company or  
27 reasonably available location for motor vehicle repair. If the  
1 insured or claimant chooses to use a particular company or location  
2 other than the one providing the lowest estimate for like kind and  
3 quality motor vehicle repair, the insurer shall not be liable for  
4 any cost exceeding the lowest estimate. For purposes of this  
5 subdivision, motor vehicle repair shall include motor vehicle glass  
6 replacement and motor vehicle glass repair; and  
7 (17) Failing to provide coverage information or  
8 coordinate benefits pursuant to section 3 of this act.  
9 Sec. 10. If any section in this act or any part of any  
10 section is declared invalid or unconstitutional, the declaration  
11 shall not affect the validity or constitutionality of the remaining  
12 portions.  
13 Sec. 11. Original section 44-1540, Reissue Revised  
14 Statutes of Nebraska, is repealed."

### SELECT FILE

**LEGISLATIVE BILL 478.** E & R amendment, AM7101, found on page 1662, was adopted.

Senator Cornett renewed her pending amendment, AM1690, found on page 1713.

Pending.

### VISITORS

Visitors to the Chamber were Senator Heidemann's sister and nephews, Lois, Casey, and Tyler Bohling, from Elk Creek; members of the Delta Epsilon Omega Chapter of Alpha Kappa Alpha Sorority Incorporated from Lincoln and Omaha; Senator Kremer's grandson, Tim Kremer, from Lincoln; Harlan Schrieber from Hooper; 43 fourth-grade students and teachers from Sunny Slope Elementary School, Omaha; 50 fourth-grade students and teacher from Loveland Elementary School, Omaha; and Larry and Monica Stauffer from Humboldt.

**RECESS**

At 11:57 a.m., on a motion by Senator Hudkins, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Burling, Combs, Cunningham, and Louden who were excused until they arrive.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 28A, 114, and 126A.

(Signed) Michael Flood, Chairperson

**REPORT OF THE EXECUTIVE BOARD**2005 Resolutions calling for an Interim Study

- LR 68 Interim study of the safety of and potential improvements to the intersections in Nebraska's state highway system  
Transportation and Telecommunications
- LR 69 Interim study to investigate and provide recommendations to address the public health hazards created by methamphetamine labs  
Health and Human Services
- LR 74 Interim study to determine the potential need for social workers to be placed as staff in public schools  
Education
- LR 75 Interim study to review key priorities set forth by the LR 174 Task Force regarding the state's system of postsecondary education  
Legislative Evaluation Task Force
- LR 79 Interim study to determine the extent to which wards of the Health and Human Services System are being prescribed behavior-modifying medication  
Health and Human Services

- LR 86 Interim study to examine the Workplace Safety Consultation Program and possible funding mechanisms  
Business and Labor
- LR 87 Interim study to examine legislation regarding a proof of need pre-process on any state agencies' proposed contracts for services over fifty thousand dollars  
Government, Military and Veterans Affairs
- LR 88 Interim study relating to the exemption of sales tax on United States Postal Service delivery charges for transportation of advertising materials  
Revenue
- LR 89 Interim study to examine incentives to stimulate development of renewable energy in Nebraska  
Revenue
- LR 90 Interim study to examine electronic waste recycling including funding mechanisms  
Natural Resources
- LR 91 Interim study to examine environmental justice issues  
Natural Resources
- LR 92 Interim study to examine implementation of the federal confined animal feeding regulations under the National Pollutant Discharge Elimination System  
Natural Resources
- LR 96 Interim study to examine the Internet, telephone, and mail order sale of tobacco products and loss of revenue  
Revenue
- LR 99 Interim study to examine issues relating to the extent of the use of governmental entities' geographic computer databases by the public  
Government, Military and Veterans Affairs
- LR 100 Interim study to examine issues relating to the municipal annexation of land located within the boundaries of a rural water district  
Urban Affairs
- LR 101 Interim study to examine issues relating to the Uniform Trust Code  
Banking, Commerce and Insurance
- LR 102 Interim study to examine the feasibility, ramifications, and costs of electronic waste recycling

## Natural Resources

- LR 103 Interim study to examine issues within the jurisdiction of the Government, Military and Veterans Affairs Committee  
Government, Military and Veterans Affairs
- LR 104 Interim study to examine the current election process for public power districts  
Government, Military and Veterans Affairs
- LR 105 Interim study to examine rural economic development programs  
Thirteen member comm. appointed by Exec Bd
- LR 106 Interim study to examine goals and funding for animal damage control programs  
Agriculture
- LR 107 Interim study to examine the need to update Nebraska's law of division fences  
Agriculture
- LR 108 Interim study to review issues associated with implementation of a national animal identification program  
Agriculture
- LR 109 Interim study to determine the feasibility of a policy to prohibit bullying behavior in public schools  
Education
- LR 112 Interim study to examine use of agreements by political subdivisions under the Interlocal Cooperation Act or the Joint Public Agency Act  
Government, Military and Veterans Affairs
- LR 113 Interim study to examine the public health and safety issues related to paint ball sports  
Health and Human Services
- LR 114 Interim study to examine issues related to cemeteries and cemetery law  
General Affairs
- LR 117 Interim study to examine employee wage collection after the close of each pay period  
Business and Labor
- LR 118 Interim study of issues relating to earmarking of personal property tax revenue from irrigation equipment for natural resources districts

## Revenue

- LR 119 Interim study to develop a solution to keep downstream improvements from being located in potentially hazardous locations downstream of existing dams  
Natural Resources
- LR 120 Interim study to examine the concept of developing special hunting permits for big game  
Natural Resources
- LR 121 Interim study to examine the economic impact of the federal Concentrated Animal Feeding Operations regulations on small and medium sized livestock operations  
Natural Resources
- LR 122 Interim study to examine livestock operation transfers  
Natural Resources
- LR 134 Interim study to examine fees paid to county treasurers for certain tax collections  
Revenue
- LR 135 Interim study to examine issues relating to security requirements of licensees under the Grain Warehouse Act and the Grain Dealer Act  
Agriculture
- LR 136 Interim study to examine the Universal Service Fund  
Transportation and Telecommunications
- LR 137 Interim study to explore the need to find a dependable funding source for capital construction and renovation projects for higher education and state government  
Appropriations
- LR 138 Interim study relating to elimination of personal property tax on agricultural property and changing agricultural land valuation  
Revenue
- LR 139 Interim study to review laws and regulations including allowable vehicle dimensions, weights, and fees as they pertain to increasing efficiency and commerce  
Transportation and Telecommunications
- LR 140 Interim study to examine issues relating to dissemination or sale of motor vehicle records, personal information, and other citizen information in electronic format  
Transportation and Telecommunications

- LR 141 Interim study to examine issues within the jurisdiction of the Transportation and Telecommunications Committee  
Transportation and Telecommunications
- LR 142 Interim study to examine motor vehicle titling laws regarding the allowable timeframe in which a lienholder must deliver a motor vehicle title after discharge of the lien  
Transportation and Telecommunications
- LR 143 Interim study to examine issues relating to the current state of landline and enhanced wireless 911 service  
Transportation and Telecommunications
- LR 144 Interim study to investigate the purpose of the Nebraska Telecommunications Universal Service Fund Act and the services currently supported by the fund  
Transportation and Telecommunications
- LR 145 Interim study to examine parole issues  
Judiciary
- LR 146 Interim study of the workers' compensation program to determine whether changes in benefits or procedures are warranted  
Business and Labor
- LR 147 Interim study to examine the Workplace Safety Consultation Program  
Business and Labor
- LR 148 Interim study to determine policy issues of exempt agriculture producers and penalty provisions under the Workers' Compensation Act  
Business and Labor
- LR 149 Interim study to examine health plan coverage and payments under state benefit programs  
Banking, Commerce and Insurance
- LR 150 Interim study to examine the eligibility requirements for directors of public power districts  
Natural Resources
- LR 151 Interim study to examine the practices and procedures regarding the collection of delinquent corporate and business taxes  
Revenue
- LR 152 Interim study to examine implementation of a registration process for ATV's to address the issue of noncompliance in remitting sales tax and titling

## Revenue

- LR 153 Interim study to examine issuance of retail liquor licenses  
General Affairs
- LR 154 Interim study to examine combining the Board of Barber  
Examiners and the Board of Cosmetology Examiners  
Health and Human Services
- LR 155 Interim study to examine calculations under the Tax Equity and  
Educational Opportunities Support Act  
Education
- LR 156 Interim study to explore the environmental impact of historical  
waste disposal at the Agricultural Research and Development  
Center near Mead  
Natural Resources
- LR 157 Interim study to examine the statutory scheme regarding  
enforcement of rental agreements and leases under the Landlord  
and Tenant Act  
Judiciary
- LR 158 Interim study of human trafficking in the state  
Judiciary
- LR 159 Interim study to examine enacting a safe haven law  
Health and Human Services
- LR 160 Interim study to examine lending to grain warehouses secured in  
part or in whole by grain inventories  
Agriculture
- LR 161 Interim study to examine trailer licensing statutes  
Transportation and Telecommunications
- LR 162 Interim study to examine creation of statutes to allow cities,  
counties, and other jurisdictional entities to create tax development  
districts to fund infrastructure development  
Revenue
- LR 163 Interim study to examine the misuse of emergency rooms for minor  
ailments which results in increased health care costs  
Health and Human Services
- LR 164 Interim study to examine a requirement that motor vehicle  
insurance providers notify the Dept. of Motor Vehicles when a  
motorist drops liability insurance  
Transportation and Telecommunications

- LR 165 Interim study to analyze federal requirements pertaining to improving security for drivers' licenses and personal identification cards  
Transportation and Telecommunications
- LR 166 Interim study to examine uses of and controls on the Nebraska Resources Development Fund  
Natural Resources
- LR 167 Interim study to examine the need to redact children's social security numbers and other identifying factors from child support orders in dissolution of marriage decrees  
Judiciary
- LR 168 Interim study to examine the need to establish the Office of Public Guardianship within the Supreme Court  
Judiciary
- LR 169 Interim study to examine the use of contempt actions in child custody and visitation orders  
Judiciary
- LR 170 Interim study to examine the statutes relative to condominium conversions  
Judiciary
- LR 171 Interim study to review Nebraska's existing system of establishing qualifications for health care translators and interpreters  
Health and Human Services
- LR 172 Interim study to examine how fees and fines for false home alarms are calculated and imposed  
Government, Military and Veterans Affairs
- LR 173 Interim study of the statutes regarding claims brought forth under the annual state claims bill  
Business and Labor/Government
- LR 174 Interim study to explore the need of institutions of higher education to attract and retain outstanding faculty through use of publicly funded endowment funds and other means  
Education
- LR 175 Interim study of the overall structure of Nebraska's Low-Income Home Energy Assistance Program (LIHEAP) and potential alternative funding sources  
Health and Human Services

- LR 176 Interim study to examine actuarial and accounting mechanisms that can be utilized in order to resolve or minimize state actuarial contributions  
Nebraska Retirement Systems
- LR 177 Interim study to examine the five public employee retirement systems administered by the Public Employees Retirement Board and funding needs  
Nebraska Retirement Systems
- LR 178 Interim study to examine items defined as compensation as each pertains to the School Employees Retirement System  
Nebraska Retirement Systems
- LR 179 Interim study of the issue of dramshop liability  
Judiciary
- LR 180 Interim study to assess the impact of Nebraska changing to a home rule state in matters of local concern  
Urban Affairs
- LR 181 Interim study to examine ways to improve the state's ability to monitor high-risk sex offenders upon their release from state custody  
Judiciary
- LR 182 Interim study to analyze Article IV, section 5, of the Constitution relating to the impeachment of civil officers for misdemeanors in office  
Judiciary
- LR 183 Interim study to examine the Motor Vehicle Service Contract Reimbursement Insurance Act  
Banking, Commerce and Insurance
- LR 184 Interim study to investigate the reasons for the large increase in the number of school administrators  
Education
- LR 185 Interim study to formulate a plan to implement the option of allowing contract schools to operate within public school districts  
Education
- LR 186 Interim study to examine issues related to the Gamblers Assistance Program  
Health and Human Services

- LR 187 Interim study to evaluate the Dept. of Health and Human Services' compliance with the federal Adoption and Safe Families Act of 1997  
Health and Human Services
- LR 188 Interim study to analyze the formula used to determine the qualification for and disbursement of money from the Mutual Finance Assistance Fund  
Urban Affairs
- LR 189 Interim study to review the retirement systems created under the Class V School Employees Retirement Act  
Nebraska Retirement Systems
- LR 190 Interim study to determine whether the Constitution should be amended to increase the membership of the Public Service Commission  
Government, Military and Veterans Affairs
- LR 191 Interim study to examine the extent, nature, and quality of mental health and substance abuse services being provided in Nebraska's correctional system  
Judiciary
- LR 192 Interim study of the issues surrounding the use of ignition interlock devices for persons convicted of driving under the influence  
Transportation and Telecommunications
- LR 193 Interim study to review matters within the jurisdiction of the Urban Affairs Committee  
Urban Affairs
- LR 194 Interim study of statutes governing the qualifications and processes for annexation of territory by the different classes of Nebraska's cities and villages  
Urban Affairs
- LR 195 Interim study of the Community Development Law and tax-increment financing  
Urban Affairs
- LR 197 Interim study of the salary structure of parole officers  
Appropriations
- LR 198 Interim study to review newborn genetic screening privacy laws  
Judiciary
- LR 199 Interim study to examine issues relating to requiring ten-percent ethanol in all gasoline sold in Nebraska

## Natural Resources

- LR 200 Interim study to identify, fund, and prioritize core responsibilities of the Health and Human Services System  
Health and Human Services
- LR 201 Interim study to conduct a comprehensive review of the committee structure of the standing committees of the Nebraska Legislature  
Executive Board
- LR 202 Interim study to provide information on patterns of spending by government agencies  
Appropriations
- LR 203 Interim study to review the ability of counties having a population of less than one thousand persons to provide services required under state law  
Government, Military and Veterans Affairs
- LR 204 Interim study to examine extracurricular participation by exempt students  
Education
- LR 205 Interim study to provide an analysis of Nebraska's compulsory education laws  
Education
- LR 206 Interim study of the concept of an "any willing provider" relating to prescription benefit programs  
Banking, Commerce and Insurance/Health
- LR 207 Interim study to examine issues permitting cities of the first class to consolidate with cities of the second class or villages  
Urban Affairs
- LR 208 Interim study to continue examination of Nebraska's tax structure compared with the past and with other states  
Revenue
- LR 209 Interim study to examine issues related to the state lottery  
General Affairs
- LR 210 Interim study to examine the importance of living wills  
Judiciary
- LR 211 Interim study to examine statutes relating to forfeiture of money and property utilized in the commission of drug crimes  
Judiciary

- LR 212 Interim study to examine the public health impact of fetal alcohol spectrum disorders and potential remedies  
Health and Human Services
- LR 213 Interim study to examine expanding foster care parent participation in child custody determination hearings  
Judiciary
- LR 214 Interim study of issues relating to motor vehicle liability insurance and financial responsibility requirements  
Banking, Commerce and Insurance
- LR 215 Interim study to examine issues raised by LB 608 and determine whether mold is a serious issue that affects the health and public safety of citizens  
Business and Labor
- LR 216 Interim study to determine possible legislative action to curb unsolicited bulk electronic mail  
Transportation and Telecommunications
- LR 217 Interim study to examine the nature of the Legislature's oversight role in reviewing state programs and state initiatives and their effectiveness in the international marketplace  
Government, Military and Veterans Affairs
- LR 218 Interim study to determine costs of establishing higher education programs for foreign students  
Appropriations
- LR 219 Interim study to examine law regarding providing notice to the public as to the identity and whereabouts of registered sex offenders  
Judiciary
- LR 220 Interim study to examine law regarding training of individuals seeking to obtain a law enforcement certificate  
Judiciary
- LR 221 Interim study to examine substance abuse treatment services to persons abusing methamphetamine including individuals within the criminal justice system  
Judiciary
- LR 222 Interim study to examine programs for providing treatment to terminally ill persons incarcerated within institutions under the control of the Dept. of Correctional Services  
Judiciary

LR 225 Interim study to examine issues within the jurisdiction of the Health and Human Services Committee  
Health and Human Services

LR 226 Interim study to examine Nebraska's county government structure  
Government, Military and Veterans Affairs

(Signed) L. Patrick Engel, Chairperson  
Legislative Council, Executive Board

### **SELECT FILE**

**LEGISLATIVE BILL 478.** The Cornett pending amendment, AM1690, found on page 1713 and considered in this day's Journal, was renewed.

Senator Chambers offered the following amendment to the Cornett pending amendment:

FA305

Amend AM1690

In line 2 strike "nature" and insert "virtue".

The Chambers amendment was adopted with 32 ayes, 0 nays, and 17 present and not voting.

Senator Chambers offered the following amendment to the Cornett pending amendment:

FA306

Amend AM1690

In line 3 after "information" insert "and who actually handles classified information in performing his or her duties"

Pending.

### **MOTION - Override Line-Item Veto on LB 425**

Senator Kruse offered the following motion:

Override the Governor's line-item vetoes contained in Sections 123 and 126 of LB 425.

Senator Kruse withdrew his motion to override the Governor's line-item veto.

### **MOTION - Override Line-Item Veto on LB 425**

Senator Stuthman offered the following motion:

Override the Governor's line-item veto in Section 117, Health and Human Services - Finance Program 502 - Public Health Aid, for Community Health Centers - of LB 425.

**SENATOR BAKER PRESIDING**

**SENATOR CUDABACK PRESIDING**

Senator Byars moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

Senator Stuthman moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

Senator Stuthman requested a roll call vote, in reverse order, on his motion to override the Governor's line-item veto.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 20:

Burling	Foley	Kruse	McDonald	Schimek
Byars	Howard	Landis	Pedersen, Dw.	Stuthman
Chambers	Janssen	Langemeier	Preister	Synowiecki
Combs	Johnson	Louden	Price	Thompson

Voting in the negative, 24:

Baker	Engel	Heidemann	Mines	Schrock
Bourne	Erdman	Hudkins	Pahls	Smith
Cornett	Fischer	Jensen	Pederson, D.	Stuhr
Cudaback	Flood	Kopplin	Raikes	Wehrbein
Cunningham	Friend	Kremer	Redfield	

Present and not voting, 5:

Aguilar	Beutler	Brashear	Brown	Connealy
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Having failed to receive a constitutional three-fifths majority voting in the affirmative, that portion of the bill failed to pass notwithstanding the line-item objections of the Governor.

The Chair declared the call raised.

**MOTION - Override Line-Item Veto on LB 425**

Senator Stuthman offered the following motion:

Override the Governor's line-item veto in LB 425 of Section 172, Correctional Services, Program 750, County Jail Reimbursement, for County Jail Reimbursement Aid.

Senator Dw. Pedersen moved the previous question. The question is, "Shall

the debate now close?" The motion prevailed with 30 ayes, 1 nay, and 18 not voting.

Senator Stuthman moved for a call of the house. The motion prevailed with 35 ayes, 1 nay, and 13 not voting.

Senator Stuthman requested a roll call vote on his motion to override the Governor's line-item veto.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 19:

Aguilar	Cornett	Janssen	McDonald	Stuthman
Burling	Fischer	Kremer	Pahls	Synowiecki
Byars	Howard	Kruse	Pedersen, Dw.	Wehrbein
Combs	Hudkins	Louden	Stuhr	

Voting in the negative, 23:

Baker	Cunningham	Friend	Langemeier	Schimek
Beutler	Engel	Jensen	Mines	Schrock
Brashear	Erdman	Johnson	Pederson, D.	Smith
Brown	Flood	Kopplin	Raikes	
Chambers	Foley	Landis	Redfield	

Present and not voting, 7:

Bourne	Cudaback	Preister	Thompson
Connealy	Heidemann	Price	

Having failed to receive a constitutional three-fifths majority voting in the affirmative, that portion of the bill failed to pass notwithstanding the line-item objections of the Governor.

The Chair declared the call raised.

## SELECT COMMITTEE REPORTS

### Enrollment and Review

**LEGISLATIVE BILL 13.** Placed on Select File as amended.

E & R amendment to LB 13:

AM7115

- 1 1. In the Standing Committee amendments, AM0761:
- 2 a. On page 26, line 17, strike "16" and insert "23"; and
- 3 in line 21 strike "19" and insert "26";
- 4 b. On page 27, line 25, after "court" insert an
- 5 underscored comma and after "application" insert an underscored

6 comma; and

7 c. On page 30, line 3, strike "16 to 21" and insert "23  
8 to 28".

9 2. In the Landis amendment, AM1671:

10 a. On page 14, line 19, after "partnership" insert an  
11 underscored comma;

12 b. On page 28, line 4, strike the second comma and show  
13 as stricken; and

14 c. On page 29, line 12, after "sections" insert  
15 "48-106,".

16 3. On page 1, strike lines 2 through 7 and insert

17 "48-106, 48-118, 48-120.02, 48-121.02, 48-125, 48-144, 48-144.03,  
18 48-145, 48-145.01, 48-145.02, 48-145.04, 48-146.02, 48-152, 48-155,  
19 48-157, 48-158, 48-159, 48-162, 48-162.01, 48-162.02, 48-163,  
20 48-165, 48-177, 48-188, 48-1,102, 48-1,110, and 48-1,116, Reissue  
21 Revised Statutes of Nebraska; to exempt certain agricultural  
22 workers from coverage; to change provisions relating to court  
23 administration and to provide for the appointment of a court  
24 administrator; to change provisions relating to enforcement of the  
25 Nebraska Workers' Compensation Act, vocational rehabilitation,  
26 awards or judgments against the state, third-party claims and  
27 dismissal of a cause of action, and dispensation of prescription  
28 drugs; to harmonize provisions; to provide operative dates; to  
29 repeal the original sections; and to declare an emergency.".

**LEGISLATIVE BILL 13A.** Placed on Select File.

**LEGISLATIVE BILL 465.** Placed on Select File.

**LEGISLATIVE BILL 761.** Placed on Select File as amended.

E & R amendment to LB 761:

AM7107

1 1. Strike the original sections and all amendments

2 thereto and insert the following new sections:

3 "Section 1. Section 43-1302, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 43-1302. (1)(a) Until January 1, 2006, the ~~The~~ State

6 Foster Care Review Board shall be comprised of nine members to be  
7 appointed by the Governor, subject to confirmation by a majority of  
8 the members elected to the Legislature. At least one member shall  
9 be an attorney with legal expertise in child welfare. Two members  
10 shall be from each of the three congressional districts as they  
11 existed on January 1, 1982. In addition to the six members  
12 representative of the congressional districts, three members shall  
13 be appointed by the Governor from a group consisting of all the  
14 chairpersons of the local boards, and one such chairperson shall be  
15 appointed from each such congressional district. The appointment  
16 of a member of a local board to the state board shall not create a  
17 vacancy on the local board. Members other than those appointed  
18 from the group consisting of all the chairpersons of the local

19 boards shall be appointed to three-year terms, and those members  
20 appointed from the group consisting of all the chairpersons of  
21 local boards shall be appointed to two-year terms. No person shall  
22 serve on the state board for more than six consecutive years. No  
23 person employed by a child-caring agency, a child-placing agency,  
24 or a court shall be appointed to the state board.

1 (b) On and after January 1, 2006, the State Foster Care  
2 Review Board shall be comprised of eleven members appointed by the  
3 Governor with the approval of a majority of the members elected to  
4 the Legislature, consisting of: Three members of local foster care  
5 review boards, one from each congressional district; one  
6 practitioner of pediatric medicine, licensed under the Uniform  
7 Licensing Law; one practitioner of child clinical psychology,  
8 licensed under the Uniform Licensing Law; one social worker  
9 certified under the Uniform Licensing Law, with expertise in the  
10 area of child welfare; one attorney who is or has been a guardian  
11 ad litem; one representative of a statewide child advocacy group;  
12 one director of a child advocacy center; one director of a court  
13 appointed special advocate program; and one member of the public  
14 who has a background in business or finance.

15 The terms of members appointed pursuant to this  
16 subdivision shall be three years, except that of the initial  
17 members of the state board, one-third shall be appointed for terms  
18 of one year, one-third for terms of two years, and one-third for  
19 terms of three years, as determined by the Governor. No person  
20 appointed by the Governor to the state board shall serve more than  
21 two consecutive three-year terms. An appointee to a vacancy  
22 occurring from an unexpired term shall serve out the term of his or  
23 her predecessor. Members whose terms have expired shall continue  
24 to serve until their successors have been appointed and qualified.  
25 Members serving on the state board on December 31, 2005, shall  
26 continue in office until the members appointed under this  
27 subdivision take office. The members of the state board shall, to  
1 the extent possible, represent the three congressional districts  
2 equally.

3 (2) The state board shall select a chairperson,  
4 vice-chairperson, and such other officers as the state board deems  
5 necessary. Members of the state board shall be reimbursed for  
6 their actual and necessary expenses as provided in sections 81-1174  
7 to 81-1177. The state board shall employ or contract for services  
8 from such persons as are necessary to aid it in carrying out its  
9 duties.

10 Sec. 2. Original section 43-1302, Reissue Revised  
11 Statutes of Nebraska, is repealed."

**LEGISLATIVE BILL 761A.** Placed on Select File.

**LEGISLATIVE BILL 227.** Placed on Select File as amended.  
E & R amendment to LB 227:

AM7108

1 1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:  
3 "Section 1. Section 12-1301, Revised Statutes  
4 Supplement, 2004, is amended to read:  
5 12-1301. (1) The Director of Veterans' Affairs may  
6 establish and operate a state veteran cemetery system consisting of  
7 a facility in Box Butte County, a facility in Sarpy County, and the  
8 Nebraska Veterans' Memorial Cemetery in Hall County. The director  
9 may seek and expend private, state, and federal funds for the  
10 establishment, construction, maintenance, administration, and  
11 operation of the cemetery system as provided in this section. Any  
12 gift, bequest, or devise of real property for the cemetery system  
13 shall be subject to the approval requirements of section 81-1108.33  
14 notwithstanding the value of the real property. All funds received  
15 for the construction of the cemetery system shall be remitted to  
16 the ~~state treasurer~~ State Treasurer for credit to the Veteran  
17 Cemetery Construction Fund. No revenue from the General Fund shall  
18 be remitted to the Veteran Cemetery Construction Fund for use in  
19 the construction of the state veteran cemetery system. Any funds  
20 remaining in the Veteran Cemetery Construction Fund following the  
21 completion of construction of the three facilities comprising the  
22 state veteran cemetery system shall upon such completion be  
23 transferred to the Nebraska Veteran Cemetery System Endowment Fund,  
24 and the Veteran Cemetery Construction Fund shall thereafter  
1 terminate.  
2 (2)(a) A trust fund to be known as the Nebraska Veteran  
3 Cemetery System Endowment Fund is hereby created. The fund shall  
4 consist of:  
5 (i) Gifts, bequests, grants, or contributions from  
6 private or public sources designated for the maintenance,  
7 administration, or operation of the state veteran cemetery system;  
8 (ii) Any funds transferred from the Veteran Cemetery  
9 Construction Fund following the completion of construction of the  
10 three facilities comprising the state veteran cemetery system; and  
11 (iii) Following the termination of the Veteran Cemetery  
12 Construction Fund, any funds received by the state from any source  
13 for the state veteran cemetery system.  
14 (b) No revenue from the General Fund shall be remitted to  
15 the Nebraska Veteran Cemetery System Endowment Fund. The  
16 Legislature shall not appropriate or transfer money from the  
17 Nebraska Veteran Cemetery System Endowment Fund for any purpose  
18 other than as provided in this section. Any money in the Nebraska  
19 Veteran Cemetery System Endowment Fund available for investment  
20 shall be invested by the state investment officer pursuant to the  
21 Nebraska Capital Expansion Act and the Nebraska State Funds  
22 Investment Act. ~~Only the earnings of the Nebraska Veteran Cemetery~~  
23 ~~System Endowment Fund may be used as provided in subsection (3) of~~  
24 ~~this section.~~ No portion of the principal of the Nebraska Veteran

25 Cemetery System Endowment Fund shall be expended for any purpose  
26 except investment pursuant to this subdivision. All investment  
27 earnings from the Nebraska Veteran Cemetery System Endowment Fund  
1 shall be credited on a quarterly basis to the Nebraska Veteran  
2 Cemetery System Operation Fund.

3 (3) There is hereby created the Nebraska Veteran Cemetery  
4 System Operation Fund. Money in the fund shall be used for the  
5 operation, administration, and maintenance of the state veteran  
6 cemetery system. Any money in the fund available for investment  
7 shall be invested by the state investment officer pursuant to the  
8 Nebraska Capital Expansion Act and the Nebraska State Funds  
9 Investment Act. ~~No revenue from the General Fund shall be remitted~~  
10 ~~to the Nebraska Veteran Cemetery System Operation Fund.~~

11 (4) The director may make formal application to the  
12 federal government regarding federal financial assistance for the  
13 construction of any of the facilities comprising the state veteran  
14 cemetery system which is located in a county with a population of  
15 less than one hundred thousand persons when he or she determines  
16 that the requirements for such assistance have been met.

17 (5) The director may make formal application to the  
18 federal government regarding financial assistance for the  
19 construction of any facility comprising a portion of the state  
20 veteran cemetery system located in a county with a population of  
21 more than one hundred thousand persons when sufficient funds have  
22 been remitted to the Nebraska Veteran Cemetery System Endowment  
23 Fund such that (a) the projected annual earnings from such fund  
24 available for transfer to the Nebraska Veteran Cemetery System  
25 Operation Fund ~~in each of the next succeeding five years~~ plus (b)  
26 the projected annual value of formal agreements that have been  
27 entered into between the state and any political subdivisions or  
1 private entities to subsidize or undertake the operation,  
2 administration, or maintenance of any of the facilities within the  
3 state veteran cemetery system, has a value that is ~~equal to or~~  
4 ~~exceeds one hundred twenty-five percent of the projected annual~~  
5 ~~cost of sufficient~~ to fund the operation, administration, and  
6 maintenance of ~~the three facilities comprising the state veteran~~  
7 ~~cemetery system in each of the succeeding five years~~ any cemetery  
8 created pursuant to this subsection.

9 (6) The director may expend such funds as may be  
10 available for any of the purposes authorized in this section.

11 (7) The director, with the approval of the Governor, may  
12 enter into agreements for cemetery construction, administration,  
13 operation, or maintenance with qualified persons, political  
14 subdivisions, or business entities. The director shall provide  
15 lots in the cemetery system for the interment of deceased veterans  
16 with an honorable discharge or its equivalent and their spouses,  
17 minor children, and unmarried adult children who were physically or  
18 mentally disabled and incapable of self-support. Section 12-501  
19 does not apply to the state veteran cemetery system.

20 (8) The Veteran Cemetery Construction Fund is created.  
21 Any money in the fund available for investment shall be invested by  
22 the state investment officer pursuant to the Nebraska Capital  
23 Expansion Act and the Nebraska State Funds Investment Act. ~~Any~~  
24 ~~money in the Veteran Cemetery Maintenance Fund on July 16, 2004,~~  
25 ~~shall be transferred to the Veteran Cemetery Construction Fund.~~  
26 (9) The Nebraska Veterans Cemetery Advisory Board is  
27 created. The board shall consist of seven members. One member  
1 shall be the director who shall serve as the chairperson of the  
2 board. Three members of the board shall be veterans appointed by  
3 the Governor from a list of candidates forwarded by the county  
4 board of each county within which a state veteran cemetery system  
5 facility is located. Three members with experience in cemetery  
6 administration or operation, one from each congressional district,  
7 shall be appointed by the Governor. The members of the board shall  
8 receive no compensation but shall be reimbursed for their actual  
9 and necessary expenses in the discharge of their duties as provided  
10 in sections 81-1174 to 81-1177. The board shall meet from time to  
11 time as requested by the director to review the status of the state  
12 veteran cemetery system, to recommend actions to facilitate the  
13 development of the system, to assist in fundraising from public or  
14 private sources for the construction, operation, administration,  
15 and maintenance of the system, and to advise the director on the  
16 most appropriate actions for the state to undertake in the  
17 development of the system and the priorities for action.  
18 (10) The director may adopt and promulgate rules and  
19 regulations to carry out this section. The rules and regulations  
20 shall include requirements for proof of residency, cost of burial  
21 if any, and standards for cemeteries, including decorations and  
22 headstones.  
23 Sec. 2. Original section 12-1301, Revised Statutes  
24 Supplement, 2004, is repealed."

**LEGISLATIVE BILL 256.** Placed on Select File as amended.

E & R amendment to LB 256:

AM7110

- 1 1. On page 6, line 4, strike "the Nurse Practice Act
- 2 or"; and in line 5 after "Act" insert "or the Nurse Practice Act".

**LEGISLATIVE BILL 256A.** Placed on Select File.

**LEGISLATIVE BILL 693.** Placed on Select File as amended.

E & R amendment to LB 693:

AM7113

- 1 1. On page 15, line 15, after the semicolon insert
- 2 "and"; and in line 17 strike the semicolon and insert an
- 3 underscored period.
- 4 2. On page 20, line 5, strike "consortiums" and insert
- 5 "consortia"; and in line 6 after the semicolon insert "and".

**LEGISLATIVE BILL 557.** Placed on Select File as amended.  
E & R amendment to LB 557:

AM7111

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 81-1258, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 81-1258. ~~(1) Except as provided in subsection (2) of~~
- 6 ~~this section, none of the proceeds from the taxes provided by the~~
- 7 ~~Nebraska Visitors Development Act shall be used for any type of~~
- 8 ~~capital construction.~~
- 9 ~~(2)~~ (1)(a) The County Visitors Improvement Fund shall be
- 10 administered by the governing body of the county with the advice of
- 11 the visitors committee created in section 81-1255. The fund shall
- 12 be used to make grants for expanding and improving facilities at
- 13 any existing visitor attraction, acquiring or expanding exhibits
- 14 for existing visitor attractions, constructing visitor attractions,
- 15 or planning or developing such expansions, improvements, or
- 16 additions construction.
- 17 (b) Grants shall be available for any visitor attraction
- 18 in the county owned by the public or any nonprofit organization,
- 19 the primary purpose of which is to operate the visitor attraction,
- 20 except that grants shall not be available for any visitor
- 21 attraction where parimutuel wagering is conducted.
- 22 (c) Grants may be made for a specified annual amount not
- 23 to exceed the proceeds derived from a sales tax rate of one percent
- 24 imposed by a county for a County Visitors Improvement Fund for a
- 1 term of years not to exceed twenty years and may be pledged by the
- 2 recipient to secure bonds issued to finance expansion, improvement,
- 3 or construction of a visitor attraction. Any grant made for a term
- 4 of years shall be funded each year in accordance with any agreement
- 5 contained in the grant contract.
- 6 (d) No bonds issued by a grant recipient which pledges
- 7 grant funds shall constitute a debt, liability, or general
- 8 obligation of the county levying the tax or a pledge of the faith
- 9 and credit of the county levying the tax but shall be payable
- 10 solely from grant funds. Each bond issued by any grant recipient
- 11 which pledges grant funds shall contain on the face thereof a
- 12 statement that neither the faith and credit nor the taxing power of
- 13 the county levying the tax is pledged to the payment of the
- 14 principal of or the interest on such bond.
- 15 ~~(3)~~ (2) For purposes of this section and section 81-1255,
- 16 visitor attraction ~~shall mean~~ means a defined location open to the
- 17 public, which location is of educational, cultural, historical,
- 18 artistic, or recreational significance or provides entertainment or
- 19 in which are exhibits, displays, or performances of educational,
- 20 cultural, historic, artistic, or entertainment value.
- 21 Sec. 2. Original section 81-1258, Reissue Revised

22 Statutes of Nebraska, is repealed."

23 2. On page 1, strike beginning with the first comma in  
24 line 3 through "2004" in line 4; and in line 6 strike "sections"  
25 and insert "section".

**LEGISLATIVE BILL 573.** Placed on Select File as amended.  
E & R amendment to LB 573:

AM7114

1 1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:  
3 "Section 1. Section 2-1203, Revised Statutes Supplement,  
4 2004, is amended to read:  
5 2-1203. The State Racing Commission shall have power to  
6 prescribe and enforce rules and regulations governing horseraces  
7 and race meetings licensed as provided in sections 2-1201 to  
8 2-1242. Such rules and regulations shall contain criteria to be  
9 used by the commission for decisions on approving and revoking  
10 track licenses and licenses for telereading facilities and  
11 telephonic wagering and setting racing dates.  
12 The commission may revoke or suspend licenses issued to  
13 racing industry participants and may, in lieu of or in addition to  
14 such suspension or revocation, impose a fine in an amount not to  
15 exceed ~~one~~ five thousand dollars upon a finding that a rule or  
16 regulation has been violated by a licensed racing industry  
17 participant. The exact amount of the fine shall be proportional to  
18 the seriousness of the violation and the extent to which the  
19 licensee derived financial gain as a result of the violation. ~~All~~  
20 ~~finances collected under this section shall be remitted to the State~~  
21 ~~Treasurer to be disposed of in accordance with Article VII, section~~  
22 ~~5, of the Constitution of Nebraska.~~  
23 The commission may delegate to a board of stewards such  
24 of the commission's powers and duties as may be necessary to carry  
1 out and effectuate the purposes of sections 2-1201 to 2-1242.  
2 Any decision or action of such board of stewards may be  
3 appealed to the commission or may be reviewed by the commission on  
4 its own initiative. The board of stewards may impose a fine not to  
5 exceed fifteen hundred dollars upon a finding that a rule or  
6 regulation has been violated.  
7 The commission shall remit administrative fines collected  
8 under this section to the State Treasurer for distribution in  
9 accordance with Article VII, section 5, of the Constitution of  
10 Nebraska.  
11 Sec. 2. Section 2-1207, Reissue Revised Statutes of  
12 Nebraska, is amended to read:  
13 2-1207. (1) Within the enclosure of any racetrack where  
14 a race or race meeting licensed and conducted under sections 2-1201  
15 to 2-1218 is held or at a racetrack licensed to simulcast races or  
16 conduct interstate simulcasting, the parimutuel method or system of  
17 wagering on the results of the respective races may be used and

18 conducted by the licensee. Wagers placed through licensed  
19 teleracing facilities or by approved telephonic wagering as  
20 authorized by sections 2-1230 to 2-1242 shall be deemed to be  
21 wagers placed and accepted within the enclosure of any racetrack.  
22 Under such system, the licensee may receive wagers of money from  
23 any person present at such race or racetrack receiving the  
24 simulcast race or conducting interstate simulcasting or placed  
25 through a licensed teleracing facility or by approved telephonic  
26 wagering by any person who may legally wager on any horse in a race  
27 selected by such person to run first in such race, and the person  
1 so wagering shall acquire an interest in the total money so wagered  
2 on all horses in such race as first winners in proportion to the  
3 amount of money wagered by him or her. Such licensee shall issue  
4 to each person so wagering a certificate on which shall be shown  
5 the number of the race, the amount wagered, and the number or name  
6 of the horse selected by such person as first winner. As each race  
7 is run, at the option of the licensee, the licensee may deduct from  
8 the total sum wagered on all horses as first winners not less than  
9 fifteen percent or more than eighteen percent from such total sum,  
10 plus the odd cents of the redistribution over the next lower  
11 multiple of ten. At the option of the licensee, the licensee may  
12 deduct up to and including ~~twenty-four~~ twenty-five percent from the  
13 total sum wagered by exotic wagers as defined in section 2-1208.03.  
14 The State Racing Commission may authorize other levels of deduction  
15 on wagers conducted by means of interstate simulcasting. ~~Each~~  
16 ~~licensed racetrack shall increase the amount of deduction from the~~  
17 ~~total sum wagered by exotic wagers by one percent over the amount~~  
18 ~~deducted by that licensee in 1993.~~ The licensee shall notify the  
19 commission in writing of the percentages the licensee intends to  
20 deduct during the live race meet conducted by the licensee and  
21 shall notify the commission at least one week in advance of any  
22 changes to such percentages the licensee intends to make. The  
23 licensee shall also deduct from the total sum wagered by exotic  
24 wagers, if any, the tax plus the odd cents of the redistribution  
25 over the next multiple of ten as provided in subsection (1) of  
26 section 2-1208.04. The balance remaining on hand shall be paid out  
27 to the holders of certificates on the winning horse in the  
1 proportion that the amount wagered by each certificate holder bears  
2 to the total amount wagered on all horses in such race to run  
3 first. The licensee may likewise receive such wagers on horses  
4 selected to run second, third, or both, or in such combinations as  
5 the commission may authorize, the method, procedure, and authority  
6 and right of the licensee, as well as the deduction allowed to the  
7 licensee, to be as specified with respect to wagers upon horses  
8 selected to run first.  
9 (2) At all race meets held pursuant to this section, the  
10 licensee shall deduct from the total sum wagered one-third of the  
11 amount over fifteen percent deducted pursuant to subsection (1) of  
12 this section on wagers on horses selected to run first, second, or

13 third and one percent of all exotic wagers to be used to promote  
14 agriculture and horse breeding in Nebraska and for the support and  
15 preservation of horseracing pursuant to section 2-1207.01.

16 (3) No person under nineteen years of age shall be  
17 permitted to make any parimutuel wager, and there shall be no  
18 wagering except under the parimutuel method outlined in this  
19 section. Any person, association, or corporation who knowingly  
20 aids or abets a person under nineteen years of age in making a  
21 parimutuel wager shall be guilty of a Class IV misdemeanor.

22 Sec. 3. Section 2-1208, Revised Statutes Supplement,  
23 2004, is amended to read:

24 2-1208. For all race meetings, every corporation or  
25 association licensed under the provisions of sections 2-1201 to  
26 2-1218 shall pay the tax imposed by section 2-1208.01 and shall  
27 also pay to the State Racing Commission the sum of ~~four tenths~~  
1 sixty-four one hundredths of one percent of the gross sum wagered  
2 by the parimutuel method at each licensed racetrack enclosure  
3 during the calendar year. For race meetings devoted principally to  
4 running live races, the licensee shall pay to the commission the  
5 sum of fifty dollars for each live racing day that the licensee  
6 serves as the host track for intrastate simulcasting and  
7 twenty-five dollars for any other live racing day.

8 No other license tax, permit tax, occupation tax, or  
9 excise tax or racing fee, except as provided in this section and in  
10 sections 2-1203, 2-1208.01, and 2-1242, shall be levied, assessed,  
11 or collected from any such licensee by the state or by any county,  
12 township, district, city, village, or other governmental  
13 subdivision or body having power to levy, assess, or collect any  
14 such tax or fee.

15 Sec. 4. Section 2-1213, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 2-1213. ~~(+)~~ (1)(a) No racing under sections 2-1201 to  
18 2-1218 shall be permitted on Sunday except when approved by a  
19 majority of the members of the State Racing Commission upon  
20 application for approval by any racetrack. Such approval shall be  
21 given after the commission has considered: ~~(+)~~ (i) Whether Sunday  
22 racing at the applicant track will tend to promote and encourage  
23 agriculture and horse breeding in Nebraska; ~~(+)~~ (ii) whether the  
24 applicant track operates under a license granted by the commission;  
25 ~~(+)~~ (iii) whether the applicant track is in compliance with all  
26 applicable health, safety, fire, and police rules and regulations  
27 or ordinances; ~~(+)~~ (iv) whether the denial of Sunday racing at the  
1 applicant track would impair such track's economic ability to  
2 continue to function under its license; and ~~(+)~~ (v) whether the  
3 record of the public hearing held on the issue of Sunday racing at  
4 the applicant track shows reasonable public support. Notice of  
5 such public hearing shall be given at least ten days prior thereto  
6 by publication in a newspaper having general circulation in the  
7 county in which the applicant track is operating, and the

8 commission shall conduct a public hearing in such county. The  
9 commission may adopt, promulgate, and enforce rules and regulations  
10 governing the application and approval for Sunday racing in  
11 addition to its powers in section 2-1203. If the commission  
12 permits racing on Sunday, the voters may prohibit such racing in  
13 the manner prescribed in section 2-1213.01. If approval by the  
14 commission for Sunday racing at the applicant track is granted, no  
15 racing shall occur on Sunday until after 1 p.m.

16 (b) No license shall be granted for racing on more than  
17 one racetrack in any one county, except that the commission may, in  
18 its discretion, grant a license to any county agricultural society  
19 to conduct racing during its county fair notwithstanding a license  
20 may have been issued for racing on another track in such county.

21 (c) Since the purpose of sections 2-1201 to 2-1218 is to  
22 encourage agriculture and horse breeding in Nebraska, every  
23 licensee shall hold at least one race on each racing day limited to  
24 Nebraska-bred horses, including thoroughbreds or quarter horses.  
25 Three percent of the first money of every purse won by a  
26 Nebraska-bred horse shall be paid to the breeder of such horse.

27 Beginning September 1, 2005, through January 1, 2008, each licensee  
1 who holds a license for quarter horseracing shall, for each live  
2 racing day, give preference to Nebraska-bred quarter horses in at  
3 least one race in lieu of the requirements of this subdivision.

4 (2) For purposes of this section, Nebraska-bred horse  
5 shall mean a horse registered with the Nebraska Thoroughbred or  
6 Quarter Horse Registry and meeting the following requirements: (a)  
7 It shall have been foaled in Nebraska; (b) its dam shall have been  
8 registered, prior to foaling, with the Nebraska Thoroughbred or  
9 Quarter Horse Registry; and (c) its dam shall have been  
10 continuously in Nebraska for ninety days immediately prior to  
11 foaling, except that such ninety-day period may be reduced to  
12 thirty days in the case of a mare in foal which is purchased at a  
13 nationally recognized thoroughbred or quarter horse blood stock  
14 sale, the name and pedigree of the mare being listed in the sale  
15 catalog, and which is brought into this state and remains in this  
16 state for thirty days immediately prior to foaling.

17 The requirement that a dam shall be continuously in  
18 Nebraska for either ninety days or thirty days, as specified in  
19 subdivision (2)(c) of this section, shall not apply to a dam which  
20 is taken outside of Nebraska to be placed for sale at a nationally  
21 recognized thoroughbred or quarter horse blood stock sale, the name  
22 and pedigree of the mare being listed in the sale catalog, or for  
23 the treatment of an extreme sickness or injury, if written notice  
24 of such proposed sale or treatment is provided to the secretary of  
25 the commission within three days of the date such horse is taken  
26 out of the state.

27 The commission may designate official registrars for the  
1 purpose of registration and to certify the eligibility of  
2 Nebraska-bred horses. An official registrar shall perform such

3 duties in accordance with policies and procedures adopted and  
4 promulgated by the commission in the current rules and regulations  
5 of the commission. The commission may authorize the official  
6 registrar to collect specific fees as would reasonably compensate  
7 the registrar for expenses incurred in connection with registration  
8 of Nebraska-bred horses. The amount of such fee or fees shall be  
9 established by the commission and shall not be changed without  
10 commission approval. Fees shall not exceed one hundred dollars per  
11 horse.

12 Any decision or action taken by the official registrar  
13 shall be subject to review by the commission or may be taken up by  
14 the commission on its own initiative.

15 Sec. 5. Original sections 2-1207 and 2-1213, Reissue  
16 Revised Statutes of Nebraska, and sections 2-1203 and 2-1208,  
17 Revised Statutes Supplement, 2004, are repealed.

18 Sec. 6. Since an emergency exists, this act takes effect  
19 when passed and approved according to law."

20 2. On page 1, line 1, strike "section 2-1207" and insert  
21 "sections 2-1207 and 2-1213".

**LEGISLATIVE BILL 343.** Placed on Select File as amended.

(E & R amendment, AM7109, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Michael Flood, Chairperson

### **AMENDMENT - Print in Journal**

Senator Smith filed the following amendment to LB 70:

(Amendment, AM1739, is printed separately and available in the Bill Room, Room 1104.)

### **MOTION - Override Line-Item Veto on LB 425**

Senator Thompson offered the following motion:

Override the Governor's line-item veto contained in the following sections of LB 425: Section 102, Health and Human Services-Services, Program 39-Protection and Safety of Children, for Child Advocacy Centers.

Senator Thompson moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Senator Thompson requested a roll call vote on her motion to override the Governor's line-item veto.

Whereupon the President stated: "The question shall be, 'Shall that portion of the bill pass notwithstanding the line-item objections of the Governor?' "

Voting in the affirmative, 16:

Aguilar	Howard	McDonald	Stuthman
Byars	Jensen	Price	Synowiecki
Chambers	Kruse	Schimek	Thompson
Connealy	Landis	Schrock	Wehrbein

Voting in the negative, 15:

Baker	Cunningham	Flood	Kopplin	Mines
Bourne	Erdman	Friend	Kremer	Raikes
Burling	Fischer	Hudkins	Langemeier	Smith

Present and not voting, 17:

Beutler	Cornett	Heidemann	Pahls	Stuhr
Brashear	Cudaback	Janssen	Pederson, D.	
Brown	Engel	Johnson	Preister	
Combs	Foley	Louden	Redfield	

Excused and not voting, 1:

Pedersen, Dw.

Having failed to receive a constitutional three-fifths majority voting in the affirmative, that portion of the bill failed to pass notwithstanding the line-item objections of the Governor.

The Chair declared the call raised.

## **BILLS ON FINAL READING**

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 66 with 31 ayes, 3 nays, 14 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 66.**

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-201, Revised Statutes Supplement, 2004; to provide for special valuation of historically significant real property; to harmonize provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Connealy	Heidemann	Langemeier	Schimek
Baker	Cornett	Howard	Louden	Schrock
Beutler	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pederson, D.	Thompson
Burling	Fischer	Kopplin	Preister	Wehrbein
Byars	Flood	Kremer	Price	
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	

Voting in the negative, 0.

Present and not voting, 1:

Synowiecki

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

### **LEGISLATIVE BILL 66A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 66, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Aguilar	Connealy	Friend	Kruse	Raikes
Baker	Cornett	Heidemann	Landis	Redfield
Beutler	Cudaback	Howard	Langemeier	Schimek
Bourne	Cunningham	Hudkins	McDonald	Schrock
Brown	Engel	Janssen	Mines	Smith
Burling	Erdman	Jensen	Pahls	Stuhr
Byars	Fischer	Johnson	Pederson, D.	Stuthman
Chambers	Flood	Kopplin	Preister	Thompson
Combs	Foley	Kremer	Price	Wehrbein

Voting in the negative, 0.

Present and not voting, 3:

Brashear      Louden      Synowiecki

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 111.**

A BILL FOR AN ACT relating to the Nebraska State Patrol; to amend sections 29-212 to 29-214, Reissue Revised Statutes of Nebraska; to establish the Missing Persons Information Clearinghouse; to provide powers and duties for the patrol and local law enforcement agencies; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Connealy	Heidemann	Louden	Schrock
Baker	Cornett	Howard	McDonald	Smith
Beutler	Cudaback	Hudkins	Mines	Stuhr
Bourne	Cunningham	Janssen	Pahls	Stuthman
Brashear	Engel	Jensen	Pederson, D.	Synowiecki
Brown	Erdman	Johnson	Preister	Thompson
Burling	Fischer	Kremer	Price	Wehrbein
Byars	Flood	Kruse	Raikes	
Chambers	Foley	Landis	Redfield	
Combs	Friend	Langemeier	Schimek	

Voting in the negative, 0.

Present and not voting, 1:

Kopplin

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was

declared passed and the title agreed to.

### **LEGISLATIVE BILL 111A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 111, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Schimek
Baker	Cornett	Howard	Louden	Schrock
Beutler	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 117 with 40 ayes, 3 nays, 5 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 117.**

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-401, 28-401.01, 28-416, 28-450, and 28-456, Revised Statutes Supplement, 2004; to redefine a term; to change penalties for certain drug offenses; to change provisions and penalties relating to ephedrine, pseudoephedrine, and phenylpropanolamine; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Aguilar	Cornett	Heidemann	Landis	Schimek
Baker	Cudaback	Howard	Langemeier	Schrock
Beutler	Cunningham	Hudkins	McDonald	Smith
Bourne	Engel	Janssen	Mines	Stuhr
Brashear	Erdman	Jensen	Pahls	Stuthman
Brown	Fischer	Johnson	Preister	Synowiecki
Byars	Flood	Kopplin	Price	Thompson
Combs	Foley	Kremer	Raikes	Wehrbein
Connealy	Friend	Kruse	Redfield	

Voting in the negative, 2:

Chambers      Louden

Present and not voting, 2:

Burling      Pederson, D.

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 206.** With Emergency.

A BILL FOR AN ACT relating to developmental disabilities; to amend section 83-1212.01, Reissue Revised Statutes of Nebraska; to adopt the Developmental Disabilities Court-Ordered Custody Act; to change provisions relating to an advisory committee; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'" "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Schimek
Baker	Cornett	Howard	Louden	Schrock
Beutler	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

#### **LEGISLATIVE BILL 334.**

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 13-202, 13-204, and 13-208, Reissue Revised Statutes of Nebraska, and sections 13-206 and 13-207, Revised Statutes Supplement, 2004; to change tax credit provisions of the Community Development Assistance Act; to provide an operative date; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Aguilar	Cornett	Heidemann	Langemeier	Redfield
Baker	Cudaback	Howard	Louden	Schimek
Bourne	Cunningham	Hudkins	McDonald	Schrock
Brashear	Engel	Janssen	Mines	Smith
Brown	Erdman	Jensen	Pahls	Stuhr
Byars	Fischer	Johnson	Pederson, D.	Stuthman
Chambers	Flood	Kremer	Preister	Synowiecki
Combs	Foley	Kruse	Price	Thompson
Connealy	Friend	Landis	Raikes	Wehrbein

Voting in the negative, 0.

Present and not voting, 3:

Beutler                  Burling                  Kopplin

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 364 with 37 ayes, 4 nays, 7 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 364.** With Emergency.

A BILL FOR AN ACT relating to retirement; to amend sections 79-974, 79-978, 79-990, 79-991, 79-992, and 79-9,101, Reissue Revised Statutes of Nebraska, sections 23-2308, 23-2308.01, 23-2310.04, 23-2319.01, 24-702, 24-703, 81-2018, 84-1309.02, 84-1314, 84-1321.01, 84-1501, and 84-1503.03, Revised Statutes Supplement, 2004, sections 79-902 and 79-906, Reissue Revised Statutes of Nebraska, as amended by sections 8 and 9, respectively, Legislative Bill 503, Ninety-ninth Legislature, First Session, 2005, and section 23-2310.05, Revised Statutes Supplement, 2004, as amended by section 2, Legislative Bill 503, Ninety-ninth Legislature, First Session, 2005; to change provisions relating to the County Employees Retirement Act, the Judges Retirement Act, the School Employees Retirement Act, the Class V School Employees Retirement Act, the Nebraska State Patrol Retirement Act, the State Employees Retirement Act, and the Public Employees Retirement Board; to create and eliminate funds; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal section 84-1514, Revised Statutes Supplement, 2004; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Schimek
Baker	Cornett	Howard	Louden	Schrock
Beutler	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 499.** With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2101.01, Reissue Revised Statutes of Nebraska; to change calculations and eliminate provisions related to estate tax; to repeal the original section; to outright repeal section 77-2103, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Aguilar	Connealy	Heidemann	Landis	Redfield
Baker	Cornett	Howard	Langemeier	Schimek
Bourne	Cudaback	Hudkins	Louden	Schrock
Brashear	Cunningham	Janssen	McDonald	Smith
Brown	Engel	Jensen	Pahls	Stuhr
Burling	Erdman	Johnson	Pederson, D.	Stuthman
Byars	Fischer	Kopplin	Preister	Synowiecki
Chambers	Flood	Kremer	Price	Thompson
Combs	Friend	Kruse	Raikes	Wehrbein

Voting in the negative, 0.

Present and not voting, 3:

Beutler            Foley            Mines

Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 546.**

A BILL FOR AN ACT relating to economic development; to adopt the Nebraska Opportunity Zone Act; to create the Nebraska Innovation Zone Commission; to provide powers and duties; and to provide a termination date.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Aguilar	Connealy	Friend	Kruse	Redfield
Baker	Cornett	Heidemann	Landis	Schimek
Beutler	Cudaback	Howard	Langemeier	Schrock
Bourne	Cunningham	Hudkins	McDonald	Smith
Brashear	Engel	Janssen	Mines	Stuhr
Brown	Erdman	Jensen	Pahls	Stuthman
Burling	Fischer	Johnson	Pederson, D.	Thompson
Byars	Flood	Kopplin	Price	Wehrbein
Combs	Foley	Kremer	Raikes	

Voting in the negative, 0.

Present and not voting, 4:

Chambers        Louden            Preister        Synowiecki

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 546A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 546, Ninety-ninth

Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Connealy	Howard	Langemeier	Schrock
Baker	Cornett	Hudkins	McDonald	Smith
Beutler	Cudaback	Janssen	Mines	Stuhr
Bourne	Cunningham	Jensen	Pahls	Stuthman
Brashear	Engel	Johnson	Pederson, D.	Thompson
Brown	Erdman	Kopplin	Price	Wehrbein
Burling	Flood	Kremer	Raikes	
Byars	Foley	Kruse	Redfield	
Combs	Friend	Landis	Schimek	

Voting in the negative, 0.

Present and not voting, 6:

Chambers	Heidemann	Preister
Fischer	Louden	Synowiecki

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 566 with 36 ayes, 3 nays, 9 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 566.**

A BILL FOR AN ACT relating to elections; to amend sections 32-101, 32-103, 32-203, 32-301, 32-306, 32-308 to 32-310, 32-312, 32-314, 32-315, 32-318 to 32-326, 32-328, 32-329, 32-554, 32-901, 32-908, 32-909, 32-914, 32-914.01, 32-914.02, 32-916, 32-921, and 32-1002, Reissue Revised Statutes of Nebraska, section 32-915, Reissue Revised Statutes of Nebraska, as amended by section 5, Legislative Bill 401, Ninety-ninth Legislature, First Session, 2005, and sections 32-938 to 32-943, 32-945 to 32-951, 32-1027, and 32-1502, Reissue Revised Statutes of Nebraska, as amended

by sections 10 to 15, 17 to 23, 26, and 30, respectively, Legislative Bill 98, Ninety-ninth Legislature, First Session, 2005; to provide powers and duties and change and eliminate provisions relating to registration of voters and the conduct of elections; to change requirements for elections in certain political subdivisions; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 32-304 and 32-915.02, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Schimek
Baker	Cornett	Howard	Louden	Schrock
Beutler	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 664.** With Emergency.

A BILL FOR AN ACT relating to health care facilities; to amend section 71-409, Revised Statutes Supplement, 2004; to redefine critical access hospital; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Schimek
Baker	Cornett	Howard	Louden	Schrock
Beutler	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

#### **LEGISLATIVE BILL 664A.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 664, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Schimek
Baker	Cornett	Howard	Louden	Schrock
Beutler	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 683.**

A BILL FOR AN ACT relating to state constitutional officers; to amend section 75-104, Reissue Revised Statutes of Nebraska, and sections 84-101.01, 84-201.01, and 84-721, Revised Statutes Supplement, 2004; to change the salaries of the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, and members of the Public Service Commission; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 38:

Aguilar	Connealy	Hudkins	Louden	Schrock
Baker	Cornett	Janssen	McDonald	Smith
Bourne	Cudaback	Jensen	Mines	Stuhr
Brashear	Cunningham	Johnson	Pahls	Stuthman
Burling	Engel	Kopplin	Pederson, D.	Synowiecki
Byars	Fischer	Kremer	Price	Thompson
Chambers	Flood	Kruse	Raikes	
Combs	Heidemann	Landis	Schimek	

Voting in the negative, 5:

Beutler	Erdman	Langemeier	Redfield	Wehrbein
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Present and not voting, 5:

Brown	Foley	Friend	Howard	Preister
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Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 683A. With Emergency.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 683, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure

having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 37:

Aguilar	Connealy	Hudkins	McDonald	Smith
Baker	Cornett	Janssen	Mines	Stuhr
Bourne	Cudaback	Jensen	Pahls	Stuthman
Brashear	Cunningham	Johnson	Pederson, D.	Synowiecki
Burling	Engel	Kopplin	Price	Thompson
Byars	Fischer	Kremer	Raikes	
Chambers	Flood	Kruse	Schimek	
Combs	Heidemann	Landis	Schrock	

Voting in the negative, 5:

Beutler	Erdman	Howard	Langemeier	Redfield
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Present and not voting, 6:

Brown	Friend	Preister
Foley	Louden	Wehrbein

Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 689.** With Emergency.

A BILL FOR AN ACT relating to schools; to create and provide duties for the Distance Education Enhancement Task Force; to provide for termination; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Schimek
Baker	Cornett	Howard	Louden	Schrock
Beutler	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

#### **LEGISLATIVE BILL 689A.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 689, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Schimek
Baker	Cornett	Howard	Louden	Schrock
Beutler	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 753.** With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701.16, Revised Statutes Supplement, 2004; to redefine gross receipts from construction services provided by a public utility; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Aguilar	Cornett	Howard	Louden	Schrock
Baker	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	
Connealy	Heidemann	Langemeier	Schimek	

Voting in the negative, 0.

Present and not voting, 1:

Beutler

Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**SPEAKER BRASHEAR PRESIDING**

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 66, 66A, 111, 111A, 117, 206, 334, 364, 499, 546, 546A, 566, 664, 664A, 683, 683A, 689, 689A, and 753.

**COMMUNICATION**

May 25, 2005

The Honorable John Gale  
Secretary of State  
2300 State Capitol  
Lincoln, NE 68509

Dear Mr. Secretary:

Inasmuch as the Legislature did not override the line-item vetoes by Governor Heineman of LB 425e, and consistent with our rules, I am delivering the bill for filing in the form and amounts as prescribed by the Governor.

Sincerely,  
(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

PJO:jk

**AMENDMENT - Print in Journal**

Senator Connealy filed the following amendment to LB 645:  
AM1744

(Amendments to the Brashear, et al. amendment, AM1334)

- 1 1. On page 2, line 6, strike "or wholesale".
- 2 2. On page 3, strike lines 6 through 9; and in line 10
- 3 strike "(3)" and insert "(2)".

**VISITORS**

Visitors to the Chamber were Lori Brunner Buck from Omaha; and 16 fourth-grade students and sponsors from Zion Lutheran School, Kearney.

**ADJOURNMENT**

At 5:56 p.m., on a motion by Senator Fischer, the Legislature adjourned until 9:00 a.m., Thursday, May 26, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**EIGHTY-SIXTH DAY - MAY 26, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****EIGHTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, May 26, 2005

**PRAYER**

The prayer was offered by Senator Fischer.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brown, Cornett, Synowiecki, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-fifth day was approved.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on May 25, 2005, at 6:00 p.m. were the following: LBs 66, 66A, 111, 111A, 117, 206e, 334, 364e, 499e, 546, 546A, 566, 664e, 664Ae, 683, 683Ae, 689e, 689Ae, and 753e.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**SELECT COMMITTEE REPORTS  
Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 40, 40A, 146, 146A, 332, 332A, and 713.

ER9043

Enrollment and Review Change to LB 40

The following changes, required to be reported for publication in the

Journal, have been made:

1. In the E & R amendments, AM7089, on page 1, line 6, "58-708," has been inserted after the second comma; in line 7 "section" has been struck and "sections 66-1519 and" inserted; and in line 9 "the Petroleum Release Remedial Action Cash Fund," has been inserted after the comma.

(Signed) Michael Flood, Chairperson

### **REPORT**

The following report was received by the Legislature:

#### **Retirement Systems, Public Employees**

State of Nebraska Employees Retirement Plan, Nebraska County Employees Retirement Plan, State of Nebraska Deferred Compensation Plan Service Report for the Year Ending December 31, 2004

### **REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of May 25, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Bromm, Curt  
AFLAC

### **ANNOUNCEMENT**

The Chair announced today is Senator McDonald's birthday.

### **GENERAL FILE**

**LEGISLATIVE BILL 645.** The Standing Committee amendment, AM0316, found on page 482 and considered on page 1330, was renewed.

Senator Connealy renewed his pending amendment, AM1351, found on page 1336, to the Standing Committee amendment.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 6 nays, and 18 not voting.

The Connealy amendment lost with 12 ayes, 23 nays, and 14 present and not voting.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA206

Amend AM1334

Strike section 1.

Senator Chambers withdrew his amendment.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA207

Amend AM1334

Strike section 2.

Senator Chambers withdrew his amendment.

Pending.

### **STANDING COMMITTEE REPORT** **Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 188.** Placed on General File as amended.

Standing Committee amendment to LB 188:

AM0128

- 1 1. On page 3, line 4, after "made" insert "in accordance
- 2 with subsection (2) of section 32-1608.03".

(Signed) DiAnna R. Schimek, Chairperson

### **AMENDMENTS - Print in Journal**

Senator Foley filed the following amendment to LB 484:

AM1728

- 1 1. Strike section 12 and insert the following sections:
- 2 "Section 1. Section 48-310, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 48-310. (1) No person under ~~the age of~~ sixteen years of
- 5 age shall be employed or ~~suffered~~ permitted to work in any
- 6 employment as defined in section 48-301 more than forty-eight hours
- 7 in any one week, nor more than eight hours in any one day, nor
- 8 before the hour of 6 in the morning, nor after the hour of 8 in the
- 9 evening if the child is under the age of fourteen, nor after the
- 10 hour of 10 in the evening if such child is between the ages of
- 11 fourteen and sixteen. The person issuing the work certificate may
- 12 limit or extend the stated hour in individual cases by endorsement
- 13 on the certificate, except a child shall only be permitted to work
- 14 after the hour of 10 p.m. if there is no school scheduled for the
- 15 following day and, if he or she is between fourteen and sixteen
- 16 years of age, he or she has consented to such extension by signing

17 his or her name on the endorsement extension, and his or her  
18 employer has obtained a special permit from the Department of  
19 Labor. The Department of Labor may issue a special permit to allow  
20 employment of such child beyond 10 p.m. upon being satisfied, after  
21 inspection of the working conditions, of and the safety,  
22 healthfulness, and general welfare to the child of the business  
23 premises. The special permit may be issued for periods not to  
24 exceed ninety days and may be renewed only after reinspection. The  
1 fee for each permit or renewal shall be established by rule and  
2 regulation of the Commissioner of Labor, and all money so collected  
3 by the commissioner shall be remitted to the State Treasurer who  
4 shall credit the funds to the General Fund. Every employer shall  
5 post in a conspicuous place in every room where such children are  
6 employed a printed notice stating the hours required of them each  
7 day, the hours of commencing and stopping work, and the time  
8 allowed for meals. The printed form of such notice shall be  
9 furnished by the Department of Labor.

10 (2) Except as provided in subsections (3) and (4) of this  
11 section, no person under sixteen years of age shall be employed or  
12 permitted to work as a door-to-door solicitor.

13 (3) A person under sixteen years of age engaged in the  
14 delivery or distribution of newspapers or shopping news may be  
15 employed or permitted to work as a door-to-door solicitor of  
16 existing customers of such newspapers or shopping news.

17 (4) A person under sixteen years of age is permitted to  
18 work as a door-to-door solicitor if he or she is working on behalf  
19 of his or her own individual entrepreneurial endeavor.

20 Sec. 13. Sections 1 and 15 of this act become operative  
21 on their effective date with the emergency clause. The other  
22 sections of this act become operative on January 1, 2006.

23 Sec. 14. If any section in this act or any part of any  
24 section is declared invalid or unconstitutional, the declaration  
25 shall not affect the validity or constitutionality of the remaining  
26 portions.

27 Sec. 15. Original section 48-310, Reissue Revised  
1 Statutes of Nebraska, is repealed.

2 Sec. 17. Since an emergency exists, this act takes  
3 effect when passed and approved according to law."

4 2. Renumber the remaining sections and correct internal  
5 references accordingly.

Senator Cornett filed the following amendment to LB 478:  
AM1745

(Amendments to AM1690)

1 1. On page 1, line 3, after "information" insert "and  
2 who actually accesses classified information in performing his or  
3 her duties."; and in line 7 after "information" insert "and  
4 actually accesses classified information in performing his or her  
5 duties".

**GENERAL FILE**

**LEGISLATIVE BILL 645.** Senator Chambers offered the following amendment to the Standing Committee amendment:

FA210

Amend AM1334

Strike section 5.

**SENATOR JANSSEN PRESIDING**

**SENATOR CUDABACK PRESIDING**

Pending.

**SELECT COMMITTEE REPORT**  
**Enrollment and Review**

**LEGISLATIVE BILL 577.** Placed on Select File as amended.

(E & R amendment, AM7116, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Michael Flood, Chairperson

**AMENDMENTS - Print in Journal**

Senator Chambers filed the following amendment to LB 645:

FA211

Amend AM1334

Strike section 6.

Senator Chambers filed the following amendment to LB 645:

FA212

Amend AM1334

Strike section 7.

Senator Chambers filed the following amendment to LB 645:

FA213

Amend AM1334

Strike section 8.

Senator Chambers filed the following amendment to LB 645:

FA214

Amend AM1334

Strike section 10.

Senator Beutler filed the following amendment to LB 645:

FA215

Amend AM1334

On page 2, line 5 after "86-575" insert "and except for geographic areas where one or more of the listed services is not being provided or no effective competition exists in the private market as determined by the Public Service Commission"

Senator Beutler filed the following amendment to LB 645:

FA307

Amend AM1334

On page 2, line 8 after "services" add "except to the extent such services were provided prior to January 1, 2005."

On page 2, line 17, after "services" add "except to the extent such services were provided prior to January 1, 2005."

### **VISITORS**

Visitors to the Chamber were Senator Dwite Pedersen's grandson, Cameron Jackson, from Omaha; 60 fourth-grade students and teachers from Norris Elementary School, Firth; a group from Michigan; and 57 third-grade students and teachers from Clinton Elementary School, Lincoln.

### **ADJOURNMENT**

At 12:27 p.m., on a motion by Speaker Brashear, the Legislature adjourned until 10:00 a.m., Tuesday, May 31, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**EIGHTY-SEVENTH DAY - MAY 31, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**EIGHTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, May 31, 2005

**PRAYER**

The prayer was offered by Sister Veronica Volkmer, Marian Sisters, Marycrest Motherhouse, Waverly.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Price who was excused until she arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-sixth day was approved.

**MESSAGE FROM THE GOVERNOR**

May 26, 2005

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 312, 312A, 90e, and 90Ae were received in my office on May 25, 2005.

I signed these bills and delivered them to the Secretary of State on May 26, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

**STANDING COMMITTEE REPORT**  
**Education**

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Timothy D. Hodges - Coordinating Commission for Postsecondary Education

VOTE: Aye: Senators Bourne, Byars, Howard, Kopplin, McDonald, Raikes, Schrock, and Stuhr. Nay: None. Absent: None.

(Signed) Ron Raikes, Chairperson

**RESOLUTION**

**LEGISLATIVE RESOLUTION 237.** Introduced by Raikes, 25.

WHEREAS, the Lincoln East High School boys' golf team is the champion of the 2005 Class A Boys' State Golf Tournament; and

WHEREAS, the Spartans claimed their ninth state golf championship in the past twelve seasons; and

WHEREAS, the players and coaches of the Lincoln East boys' golf team have exemplified teamwork, sportsmanship, discipline, and determination; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Lincoln East boys' golf team be congratulated for its effort this season and in the Boys' State Golf Tournament.

2. That a copy of this resolution be sent to Head Coach Jim Tonniges.

Laid over.

**GENERAL FILE**

**LEGISLATIVE BILL 645.** The Standing Committee amendment, AM0316, found on page 482 and considered on pages 1330 and 1808, as amended, was renewed.

Senator Chambers renewed his pending amendment, FA210, found on page 1811, to the Standing Committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 23 ayes, 1 nay, and 25 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 10:

Beutler	Connealy	Kopplin	Landis	Schimek
Chambers	Howard	Kruse	Louden	Stuthman

Voting in the negative, 21:

Baker	Engel	Kremer	Raikes	Wehrbein
Brashear	Erdman	Langemeier	Redfield	
Brown	Fischer	Mines	Smith	
Byars	Flood	Pahls	Stuhr	
Cunningham	Hudkins	Pedersen, Dw.	Thompson	

Present and not voting, 15:

Aguilar	Cornett	Heidemann	Johnson	Preister
Bourne	Cudaback	Janssen	McDonald	Schrock
Combs	Foley	Jensen	Pederson, D.	Synowiecki

Excused and not voting, 3:

Burling	Friend	Price
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The Chambers amendment lost with 10 ayes, 21 nays, 15 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

## MESSAGES FROM THE GOVERNOR

May 31, 2005

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 66, 66A, 111, 111A, 117, 206e, 334, 364e, 499e, 546, 546A, 566, 664e, 664Ae, 689e, 689Ae, and 753e were received in my office on May 25, 2005.

I signed these bills and delivered them to the Secretary of State on May 31, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

May 31, 2005

Mr. President, Mr. Speaker, and  
Members of the Legislature  
State Capitol  
Lincoln, NE 68509

Dear Mr. President and Members of the Legislature:

I am returning LB 683 & LB 683Ae without my signature and with my objections.

LB 683 would provide salary increases for the State's constitutional officers, effective after January 4, 2007. Under this legislation, in addition to salary increases for other constitutional officers, the Governor's salary would be increased, by 34 percent, to \$114,000. I appreciate your willingness to consider the salary levels of our constitutional officers with those of other states; however, the salaries for these officials were last increased only two years ago, pursuant to the enactment of LB 956 in 2000.

For these reasons, I urge you to sustain my vetoes of these bills.

Sincerely,  
(Signed) Dave Heineman  
Governor

## RESOLUTION

**LEGISLATIVE RESOLUTION 238.** Introduced by McDonald, 41.

WHEREAS, Carson H. Rogers, former state legislator who served from 1985 through 1992, passed away on May 26, 2005; and

WHEREAS, Mr. Rogers is survived by his beloved wife, Alice; their children: Roxann, Russell, Rhonda, Ron, Regina, and R. Jay; their grandchildren, and their great-grandchildren; and

WHEREAS, Mr. Rogers was born February 1, 1924, in Ord, Nebraska. He graduated from Ord High School, served in the U. S. Navy during World War II, and returned home to Ord to begin his lifelong career in agriculture in Valley County; and

WHEREAS, Mr. Rogers devoted many years of his life to public service as a member of the Valley County Hospital Board of Directors, as a member and chairman of the Valley County Board of Supervisors, and as President of the Nebraska Pork Producers before his successful campaign for the 41st legislative district seat; and

WHEREAS, Mr. Rogers served on the Committee on Committees, the Agriculture Committee, the Revenue Committee, and the Rules Committee; and

WHEREAS, during his term as chairman of the Agriculture Committee, Mr. Rogers was instrumental in passing ag-related legislation that moved the Nebraska Beef Council out of state government and put Nebraska at the forefront in eradicating pseudorabies in hogs; and

WHEREAS, Mr. Rogers was liked and respected by his legislative colleagues and will be greatly missed.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature expresses its condolences to the family of Carson H. Rogers.

2. That a copy of this resolution be sent to the family of Carson H. Rogers.

Laid over.

## GENERAL FILE

**LEGISLATIVE BILL 645.** Senator Chambers withdrew his pending amendments, FA211, FA212, FA213, and FA214, found on page 1811.

Senator Connealy withdrew his pending amendment, AM1722, found on page 1760.

The Standing Committee amendment, AM0316, found on page 482 and considered on pages 1330, 1808, and in this day's Journal, as amended, was renewed.

The Standing Committee amendment, as amended, was adopted with 34 ayes, 2 nays, 11 present and not voting, and 2 excused and not voting.

Senator Brashear moved for a call of the house. The motion prevailed with 39 ayes, 0 nays, and 10 not voting.

Senator Chambers requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 33:

Aguilar	Cornett	Foley	Langemeier	Smith
Baker	Cudaback	Howard	Mines	Stuhr
Brashear	Cunningham	Hudkins	Pahls	Synowiecki
Brown	Engel	Janssen	Pedersen, Dw.	Thompson
Burling	Erdman	Jensen	Pederson, D.	Wehrbein
Byars	Fischer	Johnson	Raikes	
Combs	Flood	Kremer	Redfield	

Voting in the negative, 10:

Beutler	Connealy	Kruse	Louden	Schimek
Chambers	Kopplin	Landis	McDonald	Stuthman

Present and not voting, 3:

Bourne	Preister	Schrock
--------	----------	---------

Excused and not voting, 3:

Friend	Heidemann	Price
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Advanced to E & R for review with 33 ayes, 10 nays, 3 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

**LEGISLATIVE BILL 589.** Title read. Considered.

The Standing Committee amendment, AM0743, found on page 878, was considered.

Senator Mines renewed the Mines-Beutler pending amendment, AM1707, found on page 1760, to the Standing Committee amendment.

Pending.

## **SPEAKER BRASHEAR PRESIDING**

### **MOTIONS - Print in Journal**

Senator Schimek filed the following motion to LB 683:

That LB 683 becomes law notwithstanding the objections of the Governor.

Senator Schimek filed the following motion to LB 683A:

That LB 683A becomes law notwithstanding the objections of the Governor.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 196, 224, 227, 228, 229, 231, 232, 233, and 234 were adopted.

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 196, 224, 227, 228, 229, 231, 232, 233, and 234.

### VISITORS

Visitors to the Chamber were Lisa and Jase Heuser from Papillion; Senator Schrock's granddaughters, Jacqueline, Gabby, and Grace Schrock; Abdoulaye Ba, Timothee Boissy, Opa Diallo, and Djibril Sow from Senegal, Africa; Senator Synowiecki's daughter, Jenny Synowiecki, and Veronica Barrientos from Omaha; and 44 fourth-grade students and teachers from West Gate Elementary School, Omaha.

### RECESS

At 12:06 p.m., on a motion by Senator McDonald, the Legislature recessed until 1:30 p.m.

### AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

### ROLL CALL

The roll was called and all members were present except Senators Aguilar, Brown, Cornett, Engel, Flood, Heidemann, Kruse, Landis, Loudon, D. Pederson, Price, Thompson, and Wehrbein who were excused until they arrive.

### GENERAL FILE

**LEGISLATIVE BILL 589.** The Mines-Beutler pending amendment, AM1707, found on page 1760 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

The Mines-Beutler amendment was adopted with 27 ayes, 0 nays, 9 present and not voting, and 13 excused and not voting.

The Standing Committee amendment, AM0743, as amended, was adopted with 33 ayes, 0 nays, 7 present and not voting, and 9 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

**LEGISLATIVE BILL 589A.** Title read. Considered.

Advanced to E & R for review with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 538.** E & R amendment, AM7106, found on page 1754, was adopted.

Senators Brashear and McDonald offered the following amendment:  
AM1711

(Amendments to Standing Committee amendments, AM1650)

1 1. Insert the following new sections:

2 "Sec. 4. Section 28-931.01, Revised Statutes Supplement,  
3 2004, is amended to read:

4 28-931.01. (1) A person commits the offense of assault  
5 on an officer using a motor vehicle if he or she intentionally and  
6 knowingly causes bodily injury to a peace officer, a probation  
7 officer, or an employee of the Department of Correctional Services  
8 (a) by using a motor vehicle to run over or to strike such officer  
9 or employee or (b) by using a motor vehicle to collide with such  
10 officer's or employee's motor vehicle, while such officer or  
11 employee is engaged in the performance of his or her duties.

12 (2) Assault on an officer using a motor vehicle shall be  
13 a Class IIIA felony.

14 Sec. 25. Section 83-1,135, Revised Statutes Supplement,  
15 2004, is amended to read:

16 83-1,135. Sections 83-170 to 83-1,135 and sections 26  
17 and 27 of this act shall be known and may be cited as the Nebraska  
18 Treatment and Corrections Act.

19 Sec. 26. (1) A committed offender who is otherwise  
20 eligible for parole, who is not under sentence of death or of life  
21 imprisonment, and who because of an existing medical or physical  
22 condition is determined by the department to be terminally ill or  
23 permanently incapacitated may be considered for medical parole by  
1 the board. A committed offender may be eligible for medical parole  
2 in addition to any other parole. The department shall identify  
3 committed offenders who may be eligible for medical parole based  
4 upon their medical records.

5 (2) The board shall decide to grant medical parole only  
6 after a review of the medical, institutional, and criminal records  
7 of the committed offender and such additional medical evidence from  
8 board-ordered examinations or investigations as the board in its  
9 discretion determines to be necessary. The decision to grant  
10 medical parole and to establish conditions of release on medical  
11 parole in addition to the conditions stated in subsection (3) of  
12 this section is within the sole discretion of the board.

13 (3) As conditions of release on medical parole, the board  
14 shall require that the committed offender agree to placement for  
15 medical treatment and that he or she be placed for a definite or  
16 indefinite period of time in a hospital, a hospice, or another  
17 housing accommodation suitable to his or her medical condition,  
18 including, but not limited to, his or her family's home, as  
19 specified by the board.

20 (4) The parole term of a medical parolee shall be for the  
21 remainder of his or her sentence as reduced by any adjustment for  
22 good conduct pursuant to the Nebraska Treatment and Corrections

23 Act.

24 Sec. 27. (1) If during the term of medical parole the  
25 medical condition of a medical parolee improves to the extent that  
26 he or she is no longer eligible for medical parole, the board may  
27 order that he or she be returned to the custody of the department  
1 to await a hearing to determine whether the medical parole should  
2 be revoked.

3 (2) If medical parole is revoked due to improvement in  
4 the medical condition of the parolee, he or she shall serve the  
5 balance of his or her sentence with credit for time served on  
6 medical parole and without forfeiture of any credits accrued for  
7 good conduct pursuant to the Nebraska Treatment and Corrections Act  
8 prior to medical parole.

9 (3) If a medical parolee whose medical parole is revoked  
10 due to improvement in his or her medical condition would otherwise  
11 be eligible for parole or any other release program, he or she may  
12 be considered for such release program.

13 (4) In addition to revocation of medical parole pursuant  
14 to subsection (1) of this section, medical parole may also be  
15 revoked for violation of any condition of the medical parole  
16 established by the board."

17 2. On page 30, line 20, after the second comma insert  
18 "28-931.01,"; and in line 21 after the last comma insert  
19 "83-1,135,".

20 3. Renumber the remaining section and correct internal  
21 references accordingly.

The Brashear-McDonald amendment was adopted with 34 ayes, 0 nays, 13 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 538A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 484.** E & R amendment, AM7112, found on page 1754, was adopted.

Senator Foley withdrew his pending amendment, AM1699, found on page 1740.

Senators Foley, Loudon, and Cunningham offered the following amendment:

AM1748

- 1 1. Strike section 12 and insert the following sections:
- 2 "Section 1. Section 48-310, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 48-310. (1) No person under ~~the age of~~ sixteen years of
- 5 age shall be employed or ~~suffered~~ permitted to work in any
- 6 employment as defined in section 48-301 more than forty-eight hours

7 in any one week, nor more than eight hours in any one day, nor  
8 before the hour of 6 in the morning, nor after the hour of 8 in the  
9 evening if the child is under the age of fourteen, nor after the  
10 hour of 10 in the evening if such child is between the ages of  
11 fourteen and sixteen. The person issuing the work certificate may  
12 limit or extend the stated hour in individual cases by endorsement  
13 on the certificate, except a child shall only be permitted to work  
14 after the hour of 10 p.m. if there is no school scheduled for the  
15 following day and, if he or she is between fourteen and sixteen  
16 years of age, he or she has consented to such extension by signing  
17 his or her name on the endorsement extension, and his or her  
18 employer has obtained a special permit from the Department of  
19 Labor. The Department of Labor may issue a special permit to allow  
20 employment of such child beyond 10 p.m. upon being satisfied, after  
21 inspection of the working conditions, of and the safety,  
22 healthfulness, and general welfare to the child of the business  
23 premises. The special permit may be issued for periods not to  
24 exceed ninety days and may be renewed only after reinspection. The  
1 fee for each permit or renewal shall be established by rule and  
2 regulation of the Commissioner of Labor, and all money so collected  
3 by the commissioner shall be remitted to the State Treasurer who  
4 shall credit the funds to the General Fund. Every employer shall  
5 post in a conspicuous place in every room where such children are  
6 employed a printed notice stating the hours required of them each  
7 day, the hours of commencing and stopping work, and the time  
8 allowed for meals. The printed form of such notice shall be  
9 furnished by the Department of Labor.

10 (2) Except as provided in subsections (3) and (4) of this  
11 section, no person under sixteen years of age shall be employed or  
12 permitted to work as a door-to-door solicitor.

13 (3) A person under sixteen years of age engaged in the  
14 delivery or distribution of newspapers or shopping news may be  
15 employed or permitted to work as a door-to-door solicitor of  
16 existing customers of such newspapers or shopping news.

17 (4) A person under sixteen years of age is permitted to  
18 work as a door-to-door solicitor if he or she is working on behalf  
19 of his or her own individual entrepreneurial endeavor.

20 Sec. 13. Sections 1 and 15 of this act become operative  
21 on their effective date with the emergency clause. The other  
22 sections of this act become operative on January 1, 2006.

23 Sec. 14. If any section in this act or any part of any  
24 section is declared invalid or unconstitutional, the declaration  
25 shall not affect the validity or constitutionality of the remaining  
26 portions.

27 Sec. 15. Original section 48-310, Reissue Revised  
1 Statutes of Nebraska, is repealed.

2 Sec. 17. Since an emergency exists, this act takes  
3 effect when passed and approved according to law."

4 2. On page 19, strike beginning with "primary" in line

5 13 through "(d)" in line 15 and show as stricken; in line 17 strike  
 6 "(e)", show as stricken, and insert "(d)"; and in line 28 before  
 7 "shall" insert "and primary insurance benefits payable under Title  
 8 II of the Social Security Act, as amended, or similar payments  
 9 under any act of Congress".

10 3. Renumber the remaining sections and correct internal  
 11 references accordingly.

The Foley et al. amendment was adopted with 28 ayes, 2 nays, 17 present and not voting, and 2 excused and not voting.

Senator Foley withdrew his pending amendment, AM1728, found on page 1809.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 13.** E & R amendment, AM7115, found on page 1778, was adopted.

Senators Cunningham and Landis offered the following amendment:  
 AM1736

1 1. In the Standing Committee amendments, AM0761, on page  
 2 25, strike beginning with "reproduction" in line 1 through "court"  
 3 in line 4 and insert "reproducing documents from preservation  
 4 duplicates, preparing forms and other material, responding to  
 5 inquiries for information, and preparing publications".

6 2. In the Landis amendment, AM1671:

7 a. On page 10, line 6, after "directing" insert  
 8 "representatives of"; and

9 b. On page 14, line 5, strike "its" and insert "the  
 10 compensation court's".

The Cunningham-Landis amendment was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 13A.** Senator Landis renewed his pending amendment, AM1685, found on page 1743.

The Landis amendment was adopted with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 465.** Senator Mines withdrew his pending amendment, AM1700, found on page 1741.

Senators Mines and Redfield offered the following amendment:

AM1752

(Amendments to Standing Committee amendments, AM0446)

- 1 1. Insert the following new sections:
- 2 "Section 1. Section 8-1,131, Revised Statutes
- 3 Supplement, 2004, is amended to read:
- 4 8-1,131. (1) All banks chartered under the laws of
- 5 Nebraska are qualified to act as trustee or custodian within the
- 6 provisions of the federal Self-Employed Individuals Tax Retirement
- 7 Act of 1962, as amended, or under the terms and provisions of
- 8 section 408(a) of the Internal Revenue Code, if the provisions of
- 9 such retirement plan require the funds of such trust or
- 10 custodianship to be invested exclusively in shares or accounts in
- 11 the bank or in other banks. If any such retirement plan, within
- 12 the judgment of the bank, constitutes a qualified plan under the
- 13 federal Self-Employed Individuals Tax Retirement Act of 1962, or
- 14 under the terms and provisions of section 408(a) of the Internal
- 15 Revenue Code and the regulations promulgated thereunder at the time
- 16 the trust was established and accepted by the bank, and is
- 17 subsequently determined not to be such a qualified plan or
- 18 subsequently ceases to be such a qualified plan, in whole or in
- 19 part, the bank may continue to act as trustee of any deposits
- 20 theretofore made under such plan and to dispose of the same in
- 21 accordance with the directions of the member and beneficiaries
- 22 thereof. No bank, in respect to savings made under this
- 23 subsection, shall be required to segregate such savings from other
- 1 liabilities of the bank. The bank shall keep appropriate records
- 2 showing in proper detail all transactions engaged in under the
- 3 authority of this subsection.
- 4 (2)(a) All banks chartered under the laws of Nebraska are
- 5 qualified to act as trustee or custodian of a medical savings
- 6 account created within the provisions of section 220 of the
- 7 Internal Revenue Code and a health savings account created within
- 8 the provisions of section 223 of the Internal Revenue Code. If any
- 9 such medical savings account or health savings account, within the
- 10 judgment of the bank, constitutes a medical savings account under
- 11 section 220 of the Internal Revenue Code or a health savings
- 12 account under section 223 of the Internal Revenue Code and the
- 13 regulations promulgated thereunder at the time the trust was
- 14 established and accepted by the bank, and is subsequently
- 15 determined not to be such a medical savings account or health
- 16 savings account, in whole or in part, the bank may continue to act
- 17 as trustee of any deposits theretofore made under such plan and to
- 18 dispose of the same in accordance with the directions of the
- 19 account holder. No bank, in respect to savings made under this
- 20 subsection, shall be required to segregate such savings from other
- 21 liabilities of the bank. The bank shall keep appropriate records
- 22 showing in proper detail all transactions engaged in under the
- 23 authority of this subsection.
- 24 (b) Except for judgments against the medical savings

25 account holder or health savings account holder or his or her  
26 dependents for qualified medical expenses as defined under section  
27 223(d)(2) of the Internal Revenue Code, funds credited to a medical  
1 savings account or health savings account are not susceptible to  
2 levy, execution, judgment, or other operation of law, garnishment,  
3 or other judicial enforcement and are not an asset or property of  
4 the account holder for purposes of bankruptcy law.

5 Sec. 2. Section 21-1799, Revised Statutes Supplement,  
6 2004, is amended to read:

7 21-1799. (1) All credit unions chartered under the laws  
8 of Nebraska shall be qualified to act as a trustee or custodian  
9 within the provisions of the federal Self-Employed Individuals Tax  
10 Retirement Act of 1962 or under the terms and provisions of section  
11 408(a) of the Internal Revenue Code if the provisions of such  
12 retirement plan require the funds of such trust or custodianship to  
13 be invested exclusively in shares or accounts in the credit union  
14 or other credit unions.

15 (2) All credit unions chartered under the laws of  
16 Nebraska are qualified to act as trustee or custodian of a medical  
17 savings account created within the provisions of section 220 of the  
18 Internal Revenue Code and a health savings account created within  
19 the provisions of section 223 of the Internal Revenue Code. Except  
20 for judgments against the medical savings account holder or health  
21 savings account holder or his or her dependents for qualified  
22 medical expenses as defined under section 223(d)(2) of the Internal  
23 Revenue Code, funds credited to a medical savings account or health  
24 savings account are not susceptible to levy, execution, judgment,  
25 or other operation of law, garnishment, or other judicial  
26 enforcement and are not an asset or property of the account holder  
27 for purposes of bankruptcy law.

1 (3) All credit unions chartered under the laws of  
2 Nebraska are qualified to act as trustee or custodian of an  
3 education individual retirement account created within the  
4 provisions of section 530 of the Internal Revenue Code.

5 (4) All credit unions chartered under the laws of  
6 Nebraska are qualified to act as trustee or custodian of a Roth IRA  
7 created within the provisions of section 408A of the Internal  
8 Revenue Code.

9 (5) If any such plan, in the judgment of the credit  
10 union, constitutes a qualified plan under the federal Self-Employed  
11 Individuals Tax Retirement Act of 1962, or under the terms and  
12 provisions of section 220, 223, 408(a), 408A, or 530 of the  
13 Internal Revenue Code, and the regulations promulgated thereunder  
14 at the time the trust was established and accepted by the credit  
15 union is subsequently determined not to be such a qualified plan,  
16 or subsequently ceases to be such a qualified plan, in whole or in  
17 part, the credit union may continue to act as trustee of any  
18 deposits which have been made under such plan and to dispose of  
19 such deposits in accordance with the directions of the member and

20 beneficiaries thereof.

21 (6) No credit union, with respect to savings made under  
22 this section, shall be required to segregate such savings from  
23 other assets of the credit union, but the credit union shall keep  
24 appropriate records showing in detail all transactions engaged in  
25 pursuant to this section."

26 2. On page 6, line 10, after the comma insert "and  
27 sections 8-1,131 and 21-1799, Revised Statutes Supplement, 2004,".

1 3. Renumber the remaining sections accordingly.

Senator Beutler offered the following amendment to the Mines-Redfield pending amendment:

FA309

Amend AM1752

On page 3, line 1 after the second "account" insert "below \$25,000"

On page 3, line 24 after "account" insert "below \$25,000"

The Beutler amendment was adopted with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

The Mines-Redfield amendment, as amended, was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 761.** E & R amendment, AM7107, found on page 1779, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 761A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 227.** E & R amendment, AM7108, found on page 1780, was adopted.

Senators Schrock and Loudon offered the following amendment:  
AM1712

(Amendments to E & R amendments, AM7108)

1 1. Insert the following new sections:  
2 "Sec. 2. Section 37-420, Reissue Revised Statutes of  
3 Nebraska, as amended by section 6, Legislative Bill 54,  
4 Ninety-ninth Legislature, First Session, 2005, and section 6,  
5 Legislative Bill 162, Ninety-ninth Legislature, First Session,  
6 2005, is amended to read:  
7 37-420. (1) Any veteran ~~of any war as defined in section~~  
8 ~~80-401.04~~ who is a legal resident of the State of Nebraska and who  
9 was discharged or separated with a characterization of honorable or  
10 general (under honorable conditions) shall be exempt from the

11 payment of any fees provided by the laws of the State of Nebraska  
12 and established by the commission pursuant to section 37-327 for  
13 the privilege of fishing or hunting in Nebraska if the veteran:

14 (a) Is rated by the United States Department of Veterans

15 Affairs as fifty percent or more disabled as a result of service in  
16 the armed forces of the United States; or

17 (b) Is receiving a pension from the department as a  
18 result of total and permanent disability, which disability was not  
19 incurred in the line of duty in the military service.

20 (2) The exemption described in subsection (1) of this  
21 section shall not extend to the privilege of commercial fishing,  
22 trapping of fur-bearing animals, or hunting for deer, antelope,  
23 wild turkey, or any other species of fish and game on which the  
1 open season is limited to a restricted number of permits or to  
2 special permits for a restricted area or game management unit.

3 (3) If disabled persons are unable by reason of physical  
4 infirmities to hunt and fish in the normal manner, the commission  
5 may issue special permits without cost to those persons to hunt and  
6 fish from a vehicle, but such permits shall not authorize any  
7 person to shoot from any public highway.

8 (4) All permits issued without the payment of any fees  
9 pursuant to this section shall be perpetual and become void only  
10 upon termination of eligibility as provided in this section.

11 (5) The commission may adopt and promulgate rules and  
12 regulations necessary to carry out this section.

13 (6) Permits issued under subdivision (3) of this section  
14 as it existed prior to the operative date of this section shall not  
15 expire as provided in section 37-421.

16 Sec. 3. Section 37-421, Reissue Revised Statutes of  
17 Nebraska, as amended by section 7, Legislative Bill 162,  
18 Ninety-ninth Legislature, First Session, 2005, is amended to read:

19 37-421. (1) The commission may issue an annual

20 combination fishing and hunting permit upon application and payment  
21 of a fee of five dollars to (a) any Nebraska resident ~~who is a~~

22 ~~veteran of any war as defined in section 80-401.01,~~ who is

23 sixty-four years of age or older; and who was discharged or  
24 separated with a characterization of honorable or general (under

25 honorable conditions) or (b) any Nebraska resident who is  
26 sixty-nine years of age or older. A person who is issued a permit

27 under this section shall be exempt from the payment of any  
1 additional fees provided by the laws of the State of Nebraska and  
2 established by the commission pursuant to section 37-327 for the

3 privilege of fishing or hunting in Nebraska, except that such  
4 exemption shall not extend to the privilege of commercial fishing,

5 trapping of fur-bearing animals, or hunting for deer, antelope,  
6 wild turkey, or any other species of fish and game on which the

7 open season is limited to a restricted number of permits or to  
8 special permits for a restricted area or game management unit.

9 (2) A permit issued as provided in this section shall

10 expire as provided in section 37-405. Permits issued under this  
11 section as it existed before the operative date of this section  
12 shall not expire as provided in section 37-405.

13 (3) If disabled persons are unable by reason of physical  
14 infirmities to hunt and fish in the normal manner, the commission  
15 may issue special permits without cost to those persons to hunt and  
16 fish from a vehicle, but such permits shall not authorize any  
17 person to shoot from any public highway.

18 (4) The commission may adopt and promulgate rules and  
19 regulations necessary to carry out this section.

20 Sec. 4. Sections 2, 3, and 5 of this act become  
21 operative on January 1, 2006. The other sections of this act  
22 become operative on their effective date.

23 Sec. 5. Original section 37-420, Reissue Revised  
24 Statutes of Nebraska, as amended by section 6, Legislative Bill 54,  
25 Ninety-ninth Legislature, First Session, 2005, and section 6,  
26 Legislative Bill 162, Ninety-ninth Legislature, First Session,  
27 2005, and section 37-421, Reissue Revised Statutes of Nebraska, as  
1 amended by section 7, Legislative Bill 162, Ninety-ninth  
2 Legislature, First Session, 2005, are repealed."

3 2. Renumber the remaining section accordingly.

The Schrock-Louden amendment was adopted with 29 ayes, 0 nays, 19  
present and not voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 256.** E & R amendment, AM7110, found on page  
1783, was adopted.

Senator Price offered the following amendment:  
AM1751

1 1. Insert the following new sections:

2 "Sec. 33. Section 71-3,106, Revised Statutes Supplement,  
3 2004, is amended to read:

4 71-3,106. The Nebraska Cosmetology Act does not apply to  
5 or restrict the activities of the following:

6 (1) Any person holding a current license or certificate  
7 issued pursuant to Chapter 71 when engaged in the usual and  
8 customary practice of his or her profession or occupation;

9 (2) Any person engaging solely in earlobe piercing;

10 (3) Any person when engaged in domestic or charitable  
11 administration;

12 (4) Any person performing any of the practices of  
13 cosmetology or nail technology solely for theatrical presentations  
14 or other entertainment functions;

15 (5) Any person practicing cosmetology, electrology,  
16 esthetics, or nail technology within the confines of a hospital,  
17 nursing home, massage therapy establishment, funeral establishment,

18 or other similar establishment or facility licensed or otherwise  
 19 regulated by the department, except that no unlicensed or  
 20 unregistered person may accept compensation for such practice;

21 (6) Any person providing services during a bona fide  
 22 emergency;

23 (7) Any retail or wholesale establishment or any person  
 24 engaged in the sale of cosmetics, nail technology products, or  
 1 other beauty products when the products are applied by the customer  
 2 or when the application of the products is in direct connection  
 3 with the sale or attempted sale of such products at retail;

4 (8) Any person when engaged in nonvocational training;

5 (9) A person demonstrating on behalf of a manufacturer or  
 6 distributor any cosmetology, nail technology, electrolysis, or body  
 7 art equipment or supplies if such demonstration is performed  
 8 without charge; ~~and~~

9 (10) Any person or licensee engaged in the practice or  
 10 teaching of manicuring; ~~and~~

11 (11) Any person or licensee engaged in the practice of  
 12 airbrush tanning or temporary, nonpermanent airbrush tattooing.

13 Sec. 101. Original section 71-3,106, Revised Statutes  
 14 Supplement, 2004, is repealed."

15 2. On page 55, line 28, strike "35 to 45" and insert "36  
 16 to 46".

17 3. On page 56, line 26; page 57, lines 7 and 22; page  
 18 58, line 12; page 63, lines 15 and 25; page 69, line 20; page 72,  
 19 line 21; and page 75, line 23, strike "act" and insert "section".

20 4. On page 61, lines 15 and 18, strike "41" and insert  
 21 "42".

22 5. On page 72, line 10; page 75, line 16; and page 76,  
 23 lines 15 and 20, strike "39" and insert "40".

24 6. On page 80, line 16, strike "74 to 76" and insert "75  
 25 to 77".

26 7. On page 86, line 28, strike "90" and insert "91".

27 8. On page 102, line 15, strike "This act becomes" and  
 1 insert "Sections 33, 100, and 101 of this act become operative  
 2 three calendar months after the adjournment of this legislative  
 3 session. The other sections of this act become"; and in line 16  
 4 strike "its" and insert "their".

5 9. Renumber the remaining sections accordingly.

The Price amendment was adopted with 27 ayes, 0 nays, 21 present and not  
 voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 256A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 693.** E & R amendment, AM7113, found on page  
 1783, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 557.** E & R amendment, AM7111, found on page 1784, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 573.** E & R amendment, AM7114, found on page 1785, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 343.** E & R amendment, AM7109, printed separately and referred to on page 1789, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 70.** The Jensen pending amendment, AM1613, printed separately and referred to on page 1667, to the Jensen pending amendment, AM1153, found on page 1173 and considered on page 1667, was renewed.

Senator Jensen withdrew his pending amendment, AM1613, printed separately and referred to on page 1667.

Senator Smith withdrew his pending amendment, AM1664, found on page 1669.

Senator Smith withdrew his pending amendment, AM1670, printed separately and referred to on page 1714.

The Jensen pending amendment, AM1153, found on page 1173 and considered on page 1667, was renewed.

Senator Smith renewed his pending amendment, AM1739, printed separately and referred to on page 1789, to the Jensen pending amendment.

## **SENATOR JANSSEN PRESIDING**

Pending.

## **SELECT COMMITTEE REPORTS** **Enrollment and Review**

**LEGISLATIVE BILL 645.** Placed on Select File as amended.  
E & R amendment to LB 645:  
AM7118

- 1 1. In the Brashear amendment, AM1334:
- 2 a. On page 2, line 24, after the last comma insert "or";
- 3 and
- 4 b. On page 5, line 17, after "for" insert "the".
- 5 2. On page 1, strike line 2; and strike beginning with
- 6 "to" in line 4 through "services" in line 5 and insert "to define
- 7 terms; to prohibit agencies, political subdivisions, and public
- 8 power suppliers from providing certain technology-based services as
- 9 prescribed; to create a task force; to eliminate provisions
- 10 relating to county telephone systems; to harmonize provisions".

**LEGISLATIVE BILL 589.** Placed on Select File as amended.  
E & R amendment to LB 589:  
AM7119

- 1 1. On page 1, line 1, after the first semicolon insert
- 2 "to amend section 44-1540, Reissue Revised Statutes of Nebraska;"
- 3 in line 3 strike "and"; and in line 4 before the period insert ";
- 4 and to repeal the original section".

**LEGISLATIVE BILL 589A.** Placed on Select File.

(Signed) Michael Flood, Chairperson

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 239.** Introduced by Landis, 46.

WHEREAS, in October, 2004, Ted Kooser of Garland, Nebraska, was the first Nebraskan and the first Great Plains poet named as Poet Laureate of the United States; and

WHEREAS, Ted Kooser's acclaimed tenure as poet laureate, originally scheduled to end in May, 2005, has been extended a year; and

WHEREAS, Ted Kooser is the author of ten collections of poetry. Among other awards and distinctions, he has received two National Endowment of the Arts fellowships in poetry, the Pushcart Prize, the Stanley Kunitz Prize, the James Boatwright Prize, the Society of Midland Authors Prize (twice), and a Merit Award from the Nebraska Arts Council; and

WHEREAS, in April, 2005, Ted Kooser won the 2005 Pulitzer Prize for Poetry for his book *Delights & Shadows*; and

WHEREAS, Ted Kooser now teaches as a visiting professor in the English department of the University of Nebraska-Lincoln; and

WHEREAS, Ted Kooser's labor on behalf of promoting the reading, reflection, and celebration of poetry is rain where the summers parch.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature salutes Ted Kooser for his poetry, his distinguished service as Poet Laureate, his many awards, including the Pulitzer Prize, and his service on behalf of the power of language.
2. That a copy of this resolution be sent to Vera's boy, Ted.

Laid over.

**LEGISLATIVE RESOLUTION 240.** Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson; Erdman, 47; Price, 26; Synowiecki, 7.

**PURPOSE:** The purpose of this study is to examine the retirement system created under the Judges Retirement Act. The study will compare the Nebraska Judges Retirement System with other plans administered by the Public Employees Retirement Board, compare judicial-type retirement plans provided by other regional states, and review options for enhancements or modifications of the Nebraska Judges Retirement System.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### **AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 693:  
AM1753

- 1 1. On page 19, line 24, before "In" insert "(1)"; in
- 2 line 26, strike "(1)" and insert "(a)"; and in line 28, strike
- 3 "(2)" and insert "(b)".
- 4 2. On page 20, line 4, strike "(3)" and insert "(c)"; in
- 5 line 7, strike "(4)" and insert "(d)"; and after line 11, insert
- 6 the following:
- 7 "(2) The authority may exercise any of the powers
- 8 authorized by this section only after a public hearing has been
- 9 held detailing the economic-impact project to be assisted and
- 10 allowing for input from the public. Notice of the public hearing
- 11 shall be given at least two weeks in advance of the hearing in a
- 12 newspaper of general circulation within the county affected by the
- 13 economic-impact project, which notice shall give a general
- 14 designation of the project and identify where more detailed plans
- 15 may be reviewed prior to the hearing.".

Senators Landis, Connealy, and Stuhr filed the following amendment to LB 71:  
(Amendment, AM1742, is printed separately and available in the Bill Room, Room 1104.)

Senator Chambers filed the following amendment to LB 589:  
FA308

Amend AM1707  
Strike section 6.

### SELECT FILE

**LEGISLATIVE BILL 70.** The Smith pending amendment, AM1739, printed separately and referred to on page 1789 and considered in this day's Journal, to the Jensen pending amendment, was renewed.

Senator Chambers asked unanimous consent to bracket LB 70 until June 3, 2005.

Senator Smith objected.

Senator Chambers offered the following motion:  
Bracket until June 3, 2005.

### SENATOR CUDABACK PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Senator Chambers requested a roll call vote, in reverse order, on his motion to bracket.

Voting in the affirmative, 14:

Byars	Howard	Kruse	Price	Thompson
Chambers	Johnson	Pedersen, Dw.	Schimek	Wehrbein
Cornett	Kopplin	Pederson, D.	Synowiecki	

Voting in the negative, 20:

Aguilar	Connealy	Flood	Kremer	Pahls
Baker	Cunningham	Foley	Landis	Redfield
Bourne	Erdman	Friend	Langemeier	Schrock
Brashear	Fischer	Hudkins	Mines	Smith

Present and not voting, 13:

Beutler	Cudaback	Janssen	Preister	Stuthman
Brown	Engel	Jensen	Raikes	
Burling	Heidemann	Louden	Stuhr	

Excused and not voting, 2:

Combs	McDonald
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The Chambers motion to bracket failed with 14 ayes, 20 nays, 13 present

and not voting, and 2 excused and not voting.

The Chair declared the call raised.

The Smith pending amendment, AM1739, printed separately and referred to on page 1789 and considered in this day's Journal, to the Jensen pending amendment, was renewed.

Senator Smith moved for a call of the house. The motion prevailed with 36 ayes, 0 nays, and 13 not voting.

Senator Smith requested a roll call vote on his amendment.

Voting in the affirmative, 30:

Aguilar	Cudaback	Friend	Kruse	Raikes
Baker	Cunningham	Heidemann	Landis	Redfield
Beutler	Engel	Hudkins	Langemeier	Schrock
Bourne	Erdman	Janssen	Mines	Smith
Brashear	Fischer	Jensen	Pahls	Stuhr
Connealy	Flood	Kremer	Pederson, D.	Stuthman

Voting in the negative, 11:

Byars	Foley	Kopplin	Thompson
Chambers	Howard	Pedersen, Dw.	Wehrbein
Cornett	Johnson	Price	

Present and not voting, 6:

Brown	Louden	Schimek
Burling	Preister	Synowiecki

Excused and not voting, 2:

Combs	McDonald
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The Smith amendment was adopted with 30 ayes, 11 nays, 6 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

The Jensen pending amendment, AM1153, found on page 1173 and considered on page 1667 and in this day's Journal, was renewed.

Senator Chambers offered the following amendment to the Jensen pending amendment:

FA315

Amend AM1739

On page 1, in line 11 after "Legislature." insert "acting in concert".

The Chambers amendment lost with 9 ayes, 1 nay, 34 present and not voting, and 5 excused and not voting.

Senator Brashear asked unanimous consent to bracket LB 70 until June 1, 2005. No objections. So ordered.

**LEGISLATIVE BILL 548.** Senator Brashear asked unanimous consent to bracket until June 1, 2005. No objections. So ordered.

**LEGISLATIVE BILL 478.** Senator Cornett renewed her pending amendment, AM1690, found on page 1713 and considered on pages 1764 and 1776.

Senator Chambers withdrew his pending amendment, FA306, found on page 1776.

Senator Cornett renewed her pending amendment, AM1745, found on page 1810, to her pending amendment.

The Cornett amendment was adopted with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

The Cornett amendment, AM1690, as amended, was adopted with 25 ayes, 0 nays, 20 present and not voting, and 4 excused and not voting.

Senator Cornett asked unanimous consent to bracket LB 478 until June 3, 2005. No objections. So ordered.

**LEGISLATIVE BILL 577.** E & R amendment, AM7116, printed separately and referred to on page 1811, was adopted.

Senator Raikes offered the following amendment:  
AM1759

(Amendments to E & R amendments, AM7116)

- 1 1. On page 6, line 27, strike "the" and insert ":(a)
- 2 The".
- 3 2. On page 7, line 2, strike "or if" and insert ":(b)";
- 4 in line 3 after "years" insert ":(c) the program has been
- 5 approved pursuant to subsection (5) of section 79-1103 for such
- 6 school year and the two preceding school years"; in line 4 strike
- 7 "such program" and insert "any of such programs"; in line 13 strike
- 8 "the" and insert ":(a) The"; in line 14 strike "or if such" and
- 9 insert ":(b) the"; in line 15 after "years" insert ":(c) the
- 10 program has been approved pursuant to subsection (5) of section
- 11 79-1103 for such school year and the two preceding school years";
- 12 and in line 16 strike "such program" and insert "any of such
- 13 programs".

- 14 3. On page 21, line 24, strike "(1)", show as stricken,  
 15 and insert "(1)(a)".
- 16 4. On page 22, line 5, before "The" insert paragraphing  
 17 and "(b)" and strike "(a)" and insert "(i)"; in line 11 strike  
 18 "(b)" and insert "(ii)"; and in line 23 after the period insert  
 19 paragraphing and "(c)".
- 20 5. On page 23, line 3, after the period insert  
 21 paragraphing and "(d)"; and in line 13 after the period insert  
 22 paragraphing and "(e)".
- 23 6. On page 24, line 9, strike "accepted", show as  
 1 stricken, and insert "approved".
- 2 7. On page 25, strike beginning with "continuity" in  
 3 line 17 through "kindergarten" in line 18 and insert "instructional  
 4 hours that are similar to or less than the instructional hours for  
 5 kindergarten".
- 6 8. On page 26, line 11, after "section" insert "and a  
 7 proposed operating budget demonstrating that the program will  
 8 continue to receive resources from other sources equal to or  
 9 greater than the sum of any grant received pursuant to this section  
 10 for the prior school year plus any calculated state aid as  
 11 calculated pursuant to subsection (1) of this section for the prior  
 12 school year".

The Raikes amendment was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

## GENERAL FILE

**LEGISLATIVE BILL 373.** Title read. Considered.

The Standing Committee amendment, AM0573, found on page 654, was considered.

Senator Fischer renewed the Fischer et al. pending amendment, AM0984, found on page 1039, to the Standing Committee amendment.

## SENATOR BAKER PRESIDING

The Fischer et al. amendment was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

## SENATOR CUDABACK PRESIDING

The Standing Committee amendment, as amended, was adopted with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 35 ayes, 0 nays, 9 present and not

voting, and 5 excused and not voting.

**LEGISLATIVE BILL 116.** Title read. Considered.

The Standing Committee amendment, AM1130, printed separately and referred to on page 1191, was considered.

Senator Connealy requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is as follows:  
FA312

23 Sec. 9. Section 43-1724, Reissue Revised Statutes of  
24 Nebraska, is amended to read:  
25 43-1724. Any employer or other payor who fails to  
26 withhold and remit any income of an obligor receiving income from  
27 the employer or other payor, after proper notice as provided in  
1 section 43-1723, shall be required to pay the certified amount to  
2 the clerk of the district court specified in the notice. The  
3 county attorney or authorized attorney may file an action in  
4 district court to enforce this section. The court may sanction an  
5 employer or other payor twenty-five dollars per day, up to five  
6 hundred dollars per incident, for failure to comply with proper  
7 notice.

4 Sec. 11. Section 43-3342.03, Reissue Revised Statutes of  
5 Nebraska, is amended to read:  
6 43-3342.03. (1) All support orders shall direct payment  
7 of support as provided in section 42-369. Any support order issued  
8 prior to the date that the State Disbursement Unit becomes  
9 operative for which the payment is to be made to the clerk of the  
10 district court shall be deemed to require payment to the State  
11 Disbursement Unit after a notice to the obligor is issued.  
12 (2) The unit may collect a fee equal to the actual cost  
13 of processing any ~~payment made with insufficient funds.~~ After  
14 payments for returned check charges or charges for electronic  
15 payments not accepted. After a payor has originated two payments  
16 made with insufficient funds resulting in returned check charges or  
17 charges for electronic payments not accepted within a period of one  
18 year, the unit shall may issue a notice to the originator that, for  
19 the following year, any payment shall be required to be paid by  
20 cash, guaranteed funds, or wire funds transfer money order,  
21 cashier's check, or certified check. After a payor has originated  
22 three payments made with insufficient funds resulting in returned  
23 check charges or electronic payments not accepted, the unit shall  
24 may issue a notice to the originator that all future payments shall  
25 be paid by cash, guaranteed funds, or wire funds transfer money  
26 order, cashier's check, or certified check, except that pursuant to

27 rule and regulation and at least two years after such issuance of  
1 notice, the unit may waive for good cause shown such requirements  
2 for methods of payment.

13 Sec. 14. Sections 12, 14, 15, and 17 of this act become  
14 operative on their effective date. The other sections of this act  
15 become operative three calendar months after adjournment of this  
16 legislative session.

17 Sec. 15. Original section 52-401, Reissue Revised  
18 Statutes of Nebraska, is repealed.

19 Sec. 16. Original sections 42-347, 42-364, 43-2,113,  
20 43-512.15, 43-1724, 43-2909, and 43-3342.03, Reissue Revised  
21 Statutes of Nebraska, are repealed.

22 Sec. 17. Since an emergency exists, this act takes  
23 effect when passed and approved according to law."

The first Standing Committee amendment was adopted with 31 ayes, 0 nays,  
13 present and not voting, and 5 excused and not voting.

The second Standing Committee amendment is as follows:  
(FA311 consists of Sections 1 through 8, 10, and 13 of the Standing  
Committee amendment.)

Senator Beutler withdrew his pending amendment, AM1462, found on page  
1521.

The second Standing Committee amendment lost with 1 aye, 27 nays, 16  
present and not voting, and 5 excused and not voting.

The third Standing Committee amendment is as follows:  
FA314

3 Sec. 12. Section 52-401, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 52-401. Whenever any person employs a physician,  
6 chiropractor, nurse, or hospital to perform professional service or  
7 services of any nature, in the treatment of or in connection with  
8 an injury, and such injured person claims damages from the party  
9 causing the injury, such physician, chiropractor, nurse, or  
10 hospital, as the case may be, shall have a lien upon any sum  
11 awarded the injured person in judgment or obtained by settlement or  
12 compromise on the amount due for the usual and customary charges of  
13 such physician, chiropractor, nurse, or hospital applicable at the  
14 times services are performed, except that no such lien shall be  
15 valid against anyone coming under the Nebraska Workers'  
16 Compensation Act.

17 In order to prosecute such lien, it shall be necessary  
18 for such physician, chiropractor, nurse, or hospital to serve a  
19 written notice upon the person or corporation from whom damages are  
20 claimed that such physician, chiropractor, nurse, or hospital  
21 claims a lien for such services and stating the amount due and the

22 nature of such services, except that whenever an action is pending  
23 in court for the recovery of such damages, it shall be sufficient  
24 to file the notice of such lien in the pending action.

25 A physician, chiropractor, nurse, or hospital claiming a  
26 lien under this section shall not be liable for attorney's fees and  
27 costs incurred by the injured person in securing the judgment,  
1 settlement, or compromise, but the lien of the injured person's  
2 attorney shall have precedence over the lien created by this  
3 section.

4 Upon a written request and with the injured person's  
5 consent, a lienholder shall provide medical records, answers to  
6 interrogatories, depositions, or any expert medical testimony  
7 related to the recovery of damages within its custody and control  
8 at a reasonable charge to the injured person.

Pending.

## **SELECT COMMITTEE REPORTS**

### **Enrollment and Review**

#### **Correctly Engrossed**

The following bills were correctly engrossed: LBs 13, 13A, 465, 484, 538, 538A, 761, and 761A.

ER9045

#### **Enrollment and Review Change to LB 465**

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, the matter beginning with "insurance" in line 1 through line 4 has been struck and "financial transactions; to amend sections 44-371 and 44-1089, Reissue Revised Statutes of Nebraska, and sections 8-1,131 and 21-1799, Revised Statutes Supplement, 2004; to provide powers relating to health savings accounts; to provide and change provisions relating to exemptions from claims of creditors for medical and health savings accounts, annuity contracts, and certain insurance policies; and to repeal the original sections." inserted.

ER9044

#### **Enrollment and Review Change to LB 484**

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, line 1, "the Employment Security Law" has been struck and "employment" inserted; in line 2 "48-310," has been inserted after "sections"; in line 4 "to change provisions relating to child labor;" has been

inserted after the semicolon; in line 5 "of employment security law" has been inserted before "relating"; in line 8 "under the Employment Security Law" has been inserted after "employers"; in lines 9 and 10 "an operative date" has been struck and "operative dates; to provide severability" inserted; and in line 10 "and" has been struck and "to declare an emergency" has been inserted before the period.

2. On page 22, lines 16 and 17, the new matter has been struck.

ER9048

### Enrollment and Review Change to LB 538

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Brashear amendment, AM1711:

a. Sections 25, 26, and 27 have been renumbered as sections 24, 25, and 26, respectively;

b. On page 1, lines 16 and 17, "26 and 27" has been struck and "25 and 26" inserted; and

c. On page 3, line 20, "section" has been struck and "sections" inserted.

2. In the E & R amendments, AM7106, on page 1, line 10, "28-931.01," has been inserted after "28-931,,"; and in line 11 "83-1,135," has been inserted after "83-1,102,."

3. On page 1, line 11, "medical parole," has been inserted after the last comma; and in line 13 "to eliminate a duty of the Department of Health and Human Services Regulation and Licensure;" has been inserted after the second semicolon.

(Signed) Michael Flood, Chairperson

### AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 548:  
AM1754

(Amendments to AM1696)

1. On page 5, line 10, strike "and" through "conclusive"
- 2 and insert "but shall be equitable and may be appealed within ten
- 3 days of the decision by the governing body of the public entity".
- 4 2. On page 6, line 1, strike "shall" through
- 5 "conclusive" and insert "may be appealed within ten days after the
- 6 determination".

Senator Beutler filed the following amendment to LB 548:  
FA310

Amend AM1696

On page 5, line 10 strike "and shall be final and conclusive" and insert "but shall be fair, reasonable and non-discriminating and may be appealed within 10 days of the decision by the governing body of the public entity"

Senators Friend, Erdman, Foley, Kremer, Dw. Pedersen, and Smith filed the following amendment to LR 98:

AM1757

- 1 1. Strike the findings on pages 1 through 3 and insert
- 2 the following "WHEREAS" clauses:
- 3 "WHEREAS, the Nebraska Accountability and Disclosure
- 4 Commission has fined David Hergert for violations of the
- 5 Accountability and Disclosure Act and the Campaign Finance
- 6 Limitation Act during the 2004 primary and general election
- 7 periods; and
- 8 WHEREAS, the Nebraska Accountability and Disclosure
- 9 Commission has fined Regent Drew Miller following his admission of
- 10 willful and intentional violations of the Accountability and
- 11 Disclosure Act and the Campaign Finance Limitation Act during the
- 12 2000 general election period, at which time he was serving as a
- 13 member of the Board of Regents of the University of Nebraska; and
- 14 WHEREAS, the Nebraska Supreme Court, in State v. Hill,
- 15 State v. Benton, 37 Neb. 80, (1893), affirmed in State v. Douglas,
- 16 217 Neb. 199, (1984), has ruled that "acts committed by a person
- 17 while in office are alone impeachable", and "if the offender is
- 18 still an officer, he is amendable to impeachment, although the acts
- 19 charged were committed in his previous term of the same office.".
- 20 2. In "Resolved" clause number 1, strike "to resign his
- 21 seat" and insert "and Drew Miller to resign their seats".
- 22 3. In "Resolved" clause number 2, strike "vacated seat"
- 23 and insert "and Mr. Miller's vacated seats".
- 24 4. In "Resolved" clause number 3, strike "vacated seat"
- 1 and insert "and Mr. Miller's vacated seats".
- 2 5. In "Resolved" clause number 4, strike each occurrence
- 3 of "Mr. Hergert" and insert "Mr. Miller".
- 4 6. In "Resolved" clause number 5, "at his" and insert
- 5 "and Mr. Miller at their" and strike "address" and insert
- 6 "addresses".

Senator Brashear filed the following amendment to LB 645:

AM1769

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. For purposes of sections 1 to 7 of this act:
- 4 (1) Broadband services means the offering of a capability
- 5 for high-speed broadband telecommunications capability at a speed
- 6 or bandwidth in excess of two hundred kilobits per second that
- 7 enables users to originate and receive high-quality voice, data,
- 8 and video telecommunications using any technology;
- 9 (2) Internet services means the offering of Internet
- 10 service provider services, providing voice over Internet protocol
- 11 services, or providing Internet protocol-based video services;
- 12 (3) Public power supplier means a public power district,
- 13 a public power and irrigation district, a municipal electric

14 system, a joint entity formed under the Interlocal Cooperation Act,  
15 a joint public agency formed under the Joint Public Agency Act, an  
16 agency formed under the Municipal Cooperative Financing Act, or any  
17 other governmental entity providing electric service;

18 (4) Telecommunications has the same meaning as  
19 telecommunications defined in section 86-117;

20 (5) Telecommunications services has the same meaning as  
21 telecommunications service defined in section 86-121; and

22 (6) Video services means the delivery of any subscription  
23 video service except those described in section 70-625.

24 Sec. 2. (1) Except as provided in sections 79-1319,  
1 81-1120.01 to 81-1120.28, 85-401 to 85-418, 85-1501 to 85-1542, and  
2 86-575, an agency or political subdivision of the state that is not  
3 a public power supplier shall not provide on a retail or wholesale  
4 basis any broadband services, Internet services, telecommunications  
5 services, or video services.

6 (2) The provisions of subsection (1) of this section  
7 shall not apply to services which an agency or political  
8 subdivision of the state was authorized to provide and was  
9 providing prior to January 1, 2005.

10 Sec. 3. (1) A public power supplier shall not provide on  
11 a retail basis any broadband services, Internet services,  
12 telecommunications services, or video services.

13 (2) The provisions of subsection (1) of this section  
14 shall not apply to services which a public power supplier was  
15 authorized to provide and was providing prior to January 1, 2005.

16 Sec. 4. (1) A public power supplier shall not provide on  
17 a wholesale basis any broadband services, Internet services,  
18 telecommunications services, or video services.

19 (2) This section terminates on December 31, 2007.

20 Sec. 5. (1) For purposes of sections 2 to 4 of this act,  
21 providing a service on a retail or wholesale basis shall not  
22 include an agency or political subdivision of the state, whether or  
23 not a public power supplier, deploying or utilizing broadband  
24 services, Internet services, telecommunications services, or video  
25 services, for its own use either individually or jointly through  
26 the Interlocal Cooperation Act, the Joint Public Agency Act, or the  
27 Municipal Cooperative Financing Act for the internal use and  
1 purpose of the agency, political subdivision, or public power  
2 supplier or to carry out the public purposes of the agency,  
3 political subdivision, or public power supplier.

4 (2) Nothing in sections 1 to 7 of this act prohibits or  
5 restricts the ability of an agency, political subdivision, or  
6 public power supplier from deploying or utilizing broadband  
7 services, Internet services, telecommunications services, or video  
8 services for the internal use and purpose of the agency, political  
9 subdivision, or public power supplier, or to carry out the public  
10 purposes of the agency, political subdivision, or public power  
11 supplier.

12 Sec. 6. Except as otherwise provided in sections 3 and 4  
13 of this act, nothing in sections 1 to 7 of this act shall be  
14 construed to restrict or expand any authority of a public power  
15 supplier as that authority existed prior to the effective date of  
16 this act.

17 Sec. 7. (1) The Broadband Services Task Force is  
18 created. The members shall be appointed as follows:

19 (a) Three members appointed by the Executive Board of the  
20 Legislative Council;

21 (b) Six members appointed by the Governor, of whom one  
22 member shall be appointed from each congressional district and  
23 three members shall be appointed on an at-large basis;

24 (c) Three members of the Public Service Commission;

25 (d) Three members of the Nebraska Power Review Board or  
26 their designees; and

27 (e) Three members of the Nebraska Information Technology  
1 Commission or their designees.

2 (2) Appointments under this section shall be completed  
3 within thirty days after the effective date of this act and  
4 reported to the Executive Board of the Legislative Council. The  
5 chairperson of the executive board shall convene the first meeting  
6 of the task force within forty-five days after the appointments are  
7 reported, and the task force shall select a chairperson at such  
8 time.

9 (3) On behalf of the task force, the Executive Board of  
10 the Legislative Council shall, in consultation with the task force,  
11 contract for the services of a meeting facilitator and such other  
12 assistance as the executive board, in consultation with the task  
13 force, deems necessary within the limits of the funds appropriated.  
14 In making its selection of a meeting facilitator, the executive  
15 board shall consider experience in the areas of telecommunications  
16 and public power.

17 (4) Issues to be studied by the task force shall include,  
18 but are not limited to:

19 (a) The implications upon competition of agencies or  
20 political subdivisions of the state or public power suppliers  
21 offering infrastructure access for broadband services, Internet  
22 services, telecommunications services, and video services and  
23 private sector investment in networks for the provision of such  
24 services;

25 (b) The need and necessity for the provision of wholesale  
26 broadband services, Internet services, telecommunications services,  
27 or video services by agencies or political subdivisions of the  
1 state and public power suppliers;

2 (c) Issues regarding the establishment of fair and  
3 equitable requirements for the regulation and taxation of the  
4 provision of wholesale broadband services, Internet services,  
5 telecommunications services, and video services by agencies or  
6 political subdivisions of the state and public power suppliers;

7 (d) An assessment of the extent and availability of  
8 public power infrastructure in the state and an evaluation of how  
9 such infrastructure could be utilized to enhance the provision of  
10 broadband services, Internet services, telecommunications services,  
11 and video services to consumers and businesses and the feasibility  
12 of using such technology in all regions of the state;

13 (e) A determination of how parity could be established  
14 for competing interests in the provision of broadband services,  
15 Internet services, telecommunications services, and video services,  
16 including, but not limited to, the amount of property taxes paid,  
17 income taxes, in lieu of tax payments paid, gross receipts taxes,  
18 sales taxes paid, tax credits and funds provided under current  
19 federal and state laws, and financing capabilities, including  
20 shareholder equity;

21 (f) An evaluation of the statutory and regulatory  
22 frameworks of other states' publicly owned utilities as they relate  
23 to providing broadband services, Internet services,  
24 telecommunications services, and video services; and

25 (g) An analysis of the geographic areas in which  
26 broadband services, Internet services, telecommunications services,  
27 and video services are being offered in the state, the degree of  
1 regulation and competition with respect to each such service within  
2 such geographic areas, and the implications of permitting agencies,  
3 political subdivisions, and public power suppliers to provide such  
4 services on the geographic reach of such services and the degree of  
5 competition in such geographic areas.

6 (5) The task force shall study the issues described in  
7 subsection (4) of this section, identify options for the resolution  
8 of such issues, and make recommendations to the Legislature and the  
9 Governor relating to any policy changes the task force deems  
10 desirable. The task force shall complete its work by December 1,  
11 2006, and submit its report to the Legislature, the Governor, the  
12 Natural Resources Committee of the Legislature, and the  
13 Transportation and Telecommunications Committee of the Legislature  
14 by such date.

15 (6) This section terminates on December 1, 2006.

16 Sec. 8. Section 25-2602.01, Revised Statutes Supplement,  
17 2004, is amended to read:

18 25-2602.01. (a) A written agreement to submit any  
19 existing controversy to arbitration is valid, enforceable, and  
20 irrevocable except upon such grounds as exist at law or in equity  
21 for the revocation of any contract.

22 (b) A provision in a written contract to submit to  
23 arbitration any controversy thereafter arising between the parties  
24 is valid, enforceable, and irrevocable, except upon such grounds as  
25 exist at law or in equity for the revocation of any contract, if  
26 the provision is entered into voluntarily and willingly.

27 (c) The Uniform Arbitration Act applies to arbitration  
1 agreements between employers and employees or between their

2 respective representatives.

3 (d) Contract provisions agreed to by the parties to a  
4 contract control over contrary provisions of the act other than  
5 subsections (e) and (f) of this section.

6 (e) Subsections (a) and (b) of this section do not apply  
7 to a claim for workers' compensation.

8 (f) Subsection (b) of this section does not apply to:

9 (1) A claim arising out of personal injury based on tort;

10 (2) A claim under the Nebraska Fair Employment Practice  
11 Act;

12 (3) Any agreement between parties covered by sections  
13 60-1401.01 to 60-1440; and

14 (4) Except as provided in section 44-811, any agreement  
15 concerning or relating to an insurance policy other than a contract  
16 between insurance companies including a reinsurance contract.

17 (g) When a conflict exists, the Uniform Arbitration Act  
18 shall not apply to the Uniform Act on Interstate Arbitration and  
19 Compromise of Death Taxes and sections 44-811, 44-4824, 54-404 to  
20 54-406, 60-2701 to 60-2709, and 70-1301 to 70-1329; ~~and 86-588~~  
21 ~~to 86-590.~~

22 Sec. 9. Section 86-575, Revised Statutes Supplement,  
23 2004, is amended to read:

24 86-575. (1) Any agency or political subdivision of the  
25 state may:

26 (a) Own dark fiber;

27 (b) Sell dark fiber pursuant to section 86-576; and

1 (c) Lease dark fiber pursuant to section 86-577.

2 (2) ~~No agency or political subdivision of the state shall~~  
3 ~~provide telecommunications services for a fee, except as authorized~~  
4 ~~in sections 79-1319, 81-1120.01 to 81-1120.28, 85-401 to 85-418,~~  
5 ~~and 85-1501 to 85-1542, or be issued a certificate of convenience~~  
6 ~~and necessity as a telecommunications common carrier or a permit as~~  
7 ~~a telecommunications contract carrier. Any agency or political~~  
8 ~~subdivision which sells or leases its dark fiber pursuant to~~  
9 ~~sections 86-574 to 86-578 shall not be deemed to be providing~~  
10 ~~telecommunications services for a fee as defined in section 1 of~~  
11 ~~this act.~~

12 Sec. 10. There is hereby appropriated \$200,000 from the  
13 General Fund for FY2005-06 to the Legislative Council for Program  
14 122, to aid in carrying out the provisions of Legislative Bill 645,  
15 Ninety-ninth Legislature, First Session, 2005.

16 No expenditures for permanent and temporary salaries and  
17 per diems for state employees shall be made from funds appropriated  
18 in this section.

19 Sec. 11. Original sections 25-2602.01 and 86-575,  
20 Revised Statutes Supplement, 2004, are repealed.

21 Sec. 12. The following sections are outright repealed:

22 Sections 86-581 to 86-592, Revised Statutes Supplement, 2004."

**RESOLUTION**

**LEGISLATIVE RESOLUTION 241.** Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Connealy, 16; Cornett, 45; Janssen, 15; Schimek, 27.

**PURPOSE:** This study would propose to review various issues relating to natural gas regulation which remain unresolved at the adjournment of the Ninety-ninth Legislature, First Session. The committee will undertake to investigate the current status of regulatory activities regarding natural gas under the jurisdiction of the Public Service Commission, including an investigation of any recommendations from the commission or flowing from its activities which should lead to new legislation. The study will further review legislative bills regarding natural gas regulation which were considered by the Urban Affairs Committee during this session and determine what legislation should be introduced during the next legislative session to resolve concerns raised by those bills. Issues to be addressed shall include (amongst others): The creation of service territories for public- and investor-owned natural gas utilities; amendment or repeal of the Municipal Natural Gas System Condemnation Act; expanded marketing authority for cities and MUD; and expanded authority for expansion of metropolitan utilities districts. Additionally, the study will address the regulation of transportation rates for high volume ratepayers and potential legislation to preserve their independent status.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**GENERAL FILE**

**LEGISLATIVE BILL 116.** The third Standing Committee amendment, FA314, found in this day's Journal, was renewed.

Senator Chambers offered the following amendment to the third Standing Committee amendment:

FA317

Amend FA314

On page 1, in lines 6, 9, 13, 18, 20 and 25 after "chiropractor", insert "podiatrist".

Senator Chambers withdrew his amendment.

The third Standing Committee amendment lost with 12 ayes, 11 nays, 21 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 42 ayes, 0 nays, 2 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 594.** Title read. Considered.

The Standing Committee amendment, AM1132, found on page 1285, was adopted with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 35 ayes, 0 nays, 9 present and not voting, and 5 excused and not voting.

### **SELECT COMMITTEE REPORTS** **Enrollment and Review**

#### **Correctly Engrossed**

The following bills were correctly engrossed: LBs 227, 256, 256A, 343, 557, 573, and 693.

ER9049

#### **Enrollment and Review Change to LB 227**

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, "veteran" in line 1 through line 4 has been struck and "veterans; to amend section 12-1301, Revised Statutes Supplement, 2004, section 37-420, Reissue Revised Statutes of Nebraska, as amended by section 6, Legislative Bill 54, Ninety-ninth Legislature, First Session, 2005, and section 6, Legislative Bill 162, Ninety-ninth Legislature, First Session, 2005, and section 37-421, Reissue Revised Statutes of Nebraska, as amended by section 7, Legislative Bill 162, Ninety-ninth Legislature, First Session, 2005; to change provisions relating to the funding of veteran cemeteries and veteran hunting and fishing permits; to provide operative dates; and to repeal the original sections." inserted.

ER9050

#### **Enrollment and Review Change to LB 256**

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Price amendment, AM1751, on page 2, the matter beginning with the second "page" in line 17 through the first semicolon in line 18 has been struck.

2. In the Standing Committee amendment, AM0542:

a. On page 2, line 21; and page 3, line 27, "act" has been struck and "section" inserted; and

b. On page 3, line 5, the second "act" has been struck and "section" inserted.

3. On page 1, line 1, "nursing" has been struck and "public health and welfare" inserted; and in line 12 "71-3,106," has been inserted after the last comma.

4. On page 2, line 9, "to provide exemptions from the Nebraska Cosmetology Act for airbrush tanning and temporary nonpermanent airbrush tattooing;" has been inserted after the first semicolon; and in line 10 "an operative date" has been struck and "operative dates" inserted.

(Signed) Michael Flood, Chairperson

### **AMENDMENTS - Print in Journal**

Senator Foley filed the following amendment to LR 98:  
AM1714

- 1 1. Strike resolved 4.
- 2 2. Renumber the remaining resolved accordingly.

Senator Friend filed the following amendment to LB 116:  
AM1225

(Amendments to Standing Committee amendments, AM1130)

- 1 1. On page 15, line 2, strike "clerk of the district  
2 court specified in the notice", show as stricken, and insert "State  
3 Disbursement Unit".
- 4 2. On page 16, lines 17 and 18, strike "one year", show  
5 as stricken, and insert "two years".

### **UNANIMOUS CONSENT - Add Cointroducers**

Senator Cornett asked unanimous consent to have her name added as cointroducer to LB 194. No objections. So ordered.

Senator Howard asked unanimous consent to have her name added as cointroducer to LB 288. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were Jeremy Kildare from Lincoln; and Prudie Skinner from Herman and Mary Adams from Wolverhampton, England.

**ADJOURNMENT**

At 7:18 p.m., on a motion by Speaker Brashear, the Legislature adjourned until 9:00 a.m., Wednesday, June 1, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**EIGHTY-EIGHTH DAY - JUNE 1, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****EIGHTY-EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, June 1, 2005

**PRAYER**

The prayer was offered by Senator Langemeier.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Byars, Combs, Cornett, Heidemann, Landis, Mines, and Dw. Pedersen who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-seventh day was approved.

**SELECT COMMITTEE REPORTS****Enrollment and Review**

**LEGISLATIVE BILL 373.** Placed on Select File as amended.  
E & R amendment to LB 373:  
AM7120

- 1 1. In the Fischer et al amendment, on page 3, line 3 the
- 2 first "of" has been struck and "or" inserted.
- 3 2. On page 1, line 2, after "sections" insert "84-906,
- 4 84-906.01, 84-907,"; and in line 4 after the semicolon insert "to
- 5 require information be provided to the Governor; to require an
- 6 estimated quantification;"

**LEGISLATIVE BILL 116.** Placed on Select File as amended.  
E & R amendment to LB 116:  
AM7121

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 43-1724, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:

5 43-1724. Any employer or other payor who fails to  
6 withhold and remit any income of an obligor receiving income from  
7 the employer or other payor, after proper notice as provided in  
8 section 43-1723, shall be required to pay the certified amount to  
9 the clerk of the district court specified in the notice. The  
10 county attorney or authorized attorney may file an action in  
11 district court to enforce this section. The court may sanction an  
12 employer or other payor twenty-five dollars per day, up to five  
13 hundred dollars per incident, for failure to comply with proper  
14 notice.

15 Sec. 2. Section 43-3342.03, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 43-3342.03. (1) All support orders shall direct payment  
18 of support as provided in section 42-369. Any support order issued  
19 prior to the date that the State Disbursement Unit becomes  
20 operative for which the payment is to be made to the clerk of the  
21 district court shall be deemed to require payment to the State  
22 Disbursement Unit after a notice to the obligor is issued.

23 (2) The unit may collect a fee equal to the actual cost  
24 of processing any ~~payment made with insufficient funds.~~ After  
1 payments for returned check charges or charges for electronic  
2 payments not accepted. After a payor has originated two payments  
3 ~~made with insufficient funds resulting in returned check charges or~~  
4 charges for electronic payments not accepted within a period of one  
5 year, the unit shall ~~may~~ issue a notice to the originator that, for  
6 the following year, any payment shall be required to be paid by  
7 ~~cash, guaranteed funds, or wire funds transfer money order,~~  
8 cashier's check, or certified check. After a payor has originated  
9 three payments ~~made with insufficient funds resulting in returned~~  
10 check charges or electronic payments not accepted, the unit ~~shall~~  
11 may issue a notice to the originator that all future payments shall  
12 be paid by ~~cash, guaranteed funds, or wire funds transfer money~~  
13 order, cashier's check, or certified check, except that pursuant to  
14 rule and regulation and at least two years after such issuance of  
15 notice, the unit may waive for good cause shown such requirements  
16 for methods of payment.

17 Sec. 3. Sections 3 and 5 of this act become operative on  
18 their effective date. The other sections of this act become  
19 operative three calendar months after the adjournment of this  
20 legislative session.

21 Sec. 4. Original sections 43-1724 and 43-3342.03,  
22 Reissue Revised Statutes of Nebraska, are repealed.

23 Sec. 5. Since an emergency exists, this act takes effect  
24 when passed and approved according to law."

25 2. On page 1, strike beginning with "section" in line 1  
26 through line 4 and insert "sections 43-1724 and 43-3342.03, Reissue  
27 Revised Statutes of Nebraska; to provide a penalty for failure to  
1 withhold income for child support obligations as prescribed; to  
2 change provisions relating to the State Disbursement Unit; to

3 provide operative dates; to repeal the original sections; and to  
4 declare an emergency.".

**LEGISLATIVE BILL 594.** Placed on Select File as amended.

E & R amendment to LB 594:

AM7122

- 1 1. On page 8, line 27, after "violation" insert an
- 2 underscored comma.
- 3 2. On page 9, line 7, strike the comma; and in line 18
- 4 after "years" insert "from the date ordered by the court".

(Signed) Michael Flood, Chairperson

### SELECT FILE

**LEGISLATIVE BILL 645.** E & R amendment, AM7118, found on page 1830, was adopted.

Senator Connealy withdrew his pending amendment, AM1744, found on page 1806.

Senator Brashear renewed his pending amendment, AM1769, found on page 1841.

Senator Schrock offered the following amendment to the Brashear pending amendment:

AM1773

(Amendments to Brashear amendment, AM1769)

- 1 1. On page 3, line 22, after "district" insert "and
- 2 shall represent consumers".

The Schrock amendment was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Senator Chambers offered the following amendment to the Brashear pending amendment:

FA320

Amend AM1769

Strike section 10.

The Chambers amendment was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

The Brashear amendment, as amended, was adopted with 32 ayes, 1 nay, 11 present and not voting, and 5 excused and not voting.

Senator Raikes offered the following amendment:

AM1356

- 1 1. In the Brashear, et al., amendment, AM1334, on page

2 2, line 3, after "in" insert "the Educational Service Units Act  
3 and".

Senator Raikes asked unanimous consent to withdraw his pending amendment, AM1356, found in this day's Journal, and replace it with his substitute amendment, AM1779. No objections. So ordered.  
AM1779

(Amendments to AM1769)

- 1 1. On page 1, line 24, after "in" insert "the  
2 Educational Service Units Act and".

The Raikes amendment was adopted with 34 ayes, 0 nays, 10 present and not voting, and 5 excused and not voting.

Senator Beutler withdrew his pending amendments, FA215 and FA307, found on page 1812.

Senator Chambers requested a record vote on the advancement of the bill.

Voting in the affirmative, 35:

Aguilar	Cunningham	Heidemann	McDonald	Redfield
Baker	Engel	Hudkins	Mines	Schrock
Brashear	Erdman	Janssen	Pahls	Smith
Brown	Fischer	Jensen	Pedersen, Dw.	Stuhr
Burling	Flood	Johnson	Pederson, D.	Synowiecki
Byars	Foley	Kremer	Preister	Thompson
Cudaback	Friend	Langemeier	Raikes	Wehrbein

Voting in the negative, 7:

Chambers	Howard	Louden	Stuthman
Connealy	Kopplin	Schimek	

Present and not voting, 4:

Beutler	Bourne	Kruse	Price
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Excused and not voting, 3:

Combs	Cornett	Landis
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Advanced to E & R for engrossment with 35 ayes, 7 nays, 4 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 589.** E & R amendment, AM7119, found on page 1831, was adopted.

Senator Chambers withdrew his pending amendment, FA308, found on page

1832.

Senator Beutler offered the following amendment:

FA319

Amend AM1707

Strike on page 4 lines 25, 26, and 27 and on page 5 strike lines 1 and 2.

The Beutler amendment was adopted with 36 ayes, 0 nays, 12 present and not voting, and 1 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 589A.** Advanced to E & R for engrossment.

**LEGISLATIVE BILL 373.** E & R amendment, AM7120, found in this day's Journal, was adopted.

Senator Preister offered the following amendment:

AM1777

(Amendments to AM0984)

- 1 1. On page 1, line 21, strike "and" and after "persons"
- 2 insert ", the public, and the environment".
- 3 2. On page 4, line 10, strike "and", show as stricken,
- 4 and after "persons" insert ", the public, and the environment".
- 5 3. On page 5, line 10, strike "and", show as stricken,
- 6 and after "regulated" insert ", the public, and the environment".

Senator Preister withdrew his amendment.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 116.** E & R amendment, AM7121, found in this day's Journal, was adopted.

Senator Stuthman asked unanimous consent to withdraw his pending amendment, AM1657, printed separately and referred to on page 1667, and replace it with his substitute amendment, AM1778. No objections. So ordered.

(Amendment, AM1778, is on file and available in the Clerk's Office, Room 2014.)

The Stuthman amendment was adopted with 31 ayes, 0 nays, 17 present and not voting, and 1 excused and not voting.

Senator Friend withdrew his pending amendment, AM1225, found on page 1848.

Senator Friend offered the following amendment:

AM1775

(Amendments to E & R amendments, AM7121)

- 1 1. Strike sections 3 and 5.
- 2 2. On page 1, line 9, strike "clerk of the district
- 3 court specified in the notice", show as stricken, and insert "State
- 4 Disbursement Unit".
- 5 3. Renumber the remaining section accordingly.

The Friend amendment was adopted with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

Senator Friend offered the following amendment:

AM1776

(Amendments to E & R amendments, AM7121)

- 1 1. On page 2, lines 4 and 5, strike "one year", show as
- 2 stricken, and insert "two years".

The Friend amendment was adopted with 26 ayes, 0 nays, 21 present and not voting, and 2 excused and not voting.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 594.** E & R amendment, AM7122, found in this day's Journal, was adopted.

Advanced to E & R for engrossment.

**LEGISLATIVE BILL 70.** The Jensen pending amendment, AM1153, found on page 1173 and considered on pages 1667, 1830, and 1834, as amended, was renewed.

Senator Smith offered the following amendment to the Jensen pending amendment:

(Amendment, AM1770, is on file and available in the Clerk's Office, Room 2014.)

Senator Beutler offered the following motion:

Recommit LB 70 to committee.

**SENATOR JANSSEN PRESIDING**

**SENATOR CUDABACK PRESIDING**

**SPEAKER BRASHEAR PRESIDING**

Senator Smith offered the following motion:

Invoke cloture on LB 70, pursuant to Rule 7, Section 10.

Senator Smith moved for a call of the house. The motion prevailed with 36

ayes, 0 nays, and 13 not voting.

Senator Smith requested a roll call vote, in reverse order, on his motion to invoke cloture.

Voting in the affirmative, 31:

Aguilar	Cudaback	Hudkins	Mines	Stuhr
Baker	Cunningham	Janssen	Pahls	Stuthman
Bourne	Erdman	Kremer	Pedersen, Dw.	Wehrbein
Burling	Fischer	Landis	Pederson, D.	
Combs	Flood	Langemeier	Redfield	
Connealy	Friend	Louden	Schrock	
Cornett	Heidemann	McDonald	Smith	

Voting in the negative, 13:

Beutler	Engel	Johnson	Raikes	Thompson
Byars	Howard	Preister	Schimek	
Chambers	Jensen	Price	Synowiecki	

Present and not voting, 3:

Brashear	Kopplin	Kruse
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Absent and not voting, 1:

Brown

Excused and not voting, 1:

Foley

The Smith motion to invoke cloture failed with 31 ayes, 13 nays, 3 present and not voting, 1 absent and not voting, and 1 excused and not voting.

## RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 235 and 236 were adopted.

## SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 235 and 236.

**REPORT OF THE EXECUTIVE BOARD**2005 Resolutions calling for an Interim Study

- LR 240 Interim study to examine the retirement system created under the Judges Retirement Act  
Nebraska Retirement Systems
- LR 241 Interim study to review issues relating to natural gas regulation  
Urban Affairs

(Signed) L. Patrick Engel, Chairperson  
Legislative Council, Executive Board

**VISITORS**

Visitors to the Chamber were Steve, Jacob, and John Pribnow from Fremont; Eric Hamilton, Darin Kleb, Doug Hartwell, Shayna Thornton, Melissa Markus, and Lori Markus from Millard; and Anne Sancier, Richard Barbeyron, Veronique Reneult, and Jean Paul Tarby from France, and Vickie Scow from Lincoln.

**RECESS**

At 12:02 p.m., on a motion by Senator Cudaback, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Brown, Cornett, Engel, Kruse, Landis, McDonald, and Wehrbein who were excused until they arrive.

**SELECT FILE**

**LEGISLATIVE BILL 548.** E & R amendment, AM7085, found on page 1170, was adopted.

Senator Chambers withdrew his pending amendment, AM1205, found on page 1203.

Senator Schrock renewed his pending motion, found on page 1730, to suspend Rule 7, Section (3)(d) to permit consideration of AM1696 as an amendment to LB 548.

The Schrock motion to suspend the rules prevailed with 32 ayes, 0 nays, 10 present and not voting, and 7 excused and not voting.

Senator Schrock renewed the Schrock et al. pending amendment, AM1696, found on page 1718.

Senator Beutler withdrew his pending amendment, AM1754, found on page 1840.

Senator Beutler renewed his pending amendment, FA310, found on page 1840, to the Schrock et al. pending amendment.

Senator Jensen asked unanimous consent to bracket LB 548 until June 3, 2005. No objections. So ordered.

### **WITHDRAW - Amendment to LB 709**

Senator Synowiecki withdrew his pending amendment, AM1323, found on page 1317, to LB 709.

### **MOTIONS - Return LB 709 to Select File**

Senator Synowiecki moved to return LB 709 to Select File for the following specific amendment:  
AM1361

(Amendments to Final Reading copy)

- 1 1. Insert the following new sections:
- 2 "Sec. 14. Sections 14 to 18 of this act shall be known
- 3 and may be cited as the Employer Public Health Services Report Act.
- 4 Sec. 15. The purpose of the Employer Public Health
- 5 Services Report Act is to require the compilation and reporting of
- 6 specified health benefit information relating to employers and
- 7 recipients of benefits under the medical assistance program
- 8 established in section 68-1018.
- 9 Sec. 16. All applicants for medical assistance benefits
- 10 under the medical assistance program established in section 68-1018
- 11 shall identify his or her employer or employers when making such
- 12 application. If the applicant is unemployed when making such
- 13 application, the applicant shall identify the employer or employers
- 14 of his or her spouse or financially responsible guardian.
- 15 Sec. 17. (1) Upon the request of the Governor or the
- 16 Legislature, the Department of Health and Human Services Finance
- 17 and Support, with the assistance and cooperation of the Department
- 18 of Health and Human Services, the Department of Labor, and the
- 19 Department of Revenue, shall compile and submit a report as
- 20 provided in this section.
- 21 (2) The report shall contain the following information
- 22 with respect to employers which employ twenty-five or more persons
- 23 who are recipients of medical assistance benefits under the medical

- 1 assistance program established in section 68-1018:  
 2 (a) The name of the employer;  
 3 (b) The number of persons receiving medical assistance  
 4 benefits who are employed by the employer; and  
 5 (c) The number of persons receiving medical assistance  
 6 benefits who are the spouse or dependent of such employees.  
 7 Sec. 18. The report submitted under section 17 of this  
 8 act shall comply with all applicable provisions of the federal  
 9 Health Insurance Portability and Accountability Act of 1996 and  
 10 other applicable provisions of state and federal law, rules, and  
 11 regulations."  
 12 2. On page 1, line 2, strike "and" and insert a comma;  
 13 and in line 3 after "Act" insert ", and the Employer Public Health  
 14 Services Report Act".  
 15 3. Renumber the remaining section accordingly.

Senator Synowiecki withdrew his motion to return.

Senator Chambers moved to return LB 709 to Select File for his specific pending amendment, AM1345, found on page 1327.

Senator Landis requested a roll call vote on the Chambers motion to return.

Senator Chambers requested the roll call vote be taken in reverse order.

Voting in the affirmative, 20:

Aguilar	Chambers	Engel	Kopplin	Schrock
Beutler	Connealy	Erdman	Louden	Synowiecki
Brashear	Cornett	Heidemann	Preister	Thompson
Byars	Cudaback	Janssen	Schimek	Wehrbein

Voting in the negative, 7:

Baker	Burling	Friend	Langemeier
Bourne	Flood	Landis	

Present and not voting, 17:

Brown	Foley	Kremer	Pedersen, Dw.	Stuthman
Combs	Hudkins	McDonald	Raikes	
Cunningham	Jensen	Mines	Redfield	
Fischer	Johnson	Pahls	Stuhr	

Excused and not voting, 5:

Howard	Kruse	Pederson, D.	Price	Smith
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The Chambers motion to return failed with 20 ayes, 7 nays, 17 present and

not voting, and 5 excused and not voting.

### **MOTION - Suspend Rules**

Senator Brashear offered the following motion to LB 71A:

To suspend the rules, Rule 5, Sections 7 (f) and (g), and Rule 7, Section 3 (d), to permit consideration of AM1780 to LB 71A.

The Brashear motion to suspend the rules prevailed with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

### **MOTION - Return LB 71A to Select File**

Senator Brashear moved to return LB 71A to Select File for the following specific amendment:

AM1780

(Amendments to Final Reading copy)

- 1 1. Strike the original section and insert the following
- 2 new section:
- 3 "Section 1. There is hereby appropriated \$200,000 from
- 4 the General Fund for FY2005-06 to the Legislative Council for
- 5 Program 122, to aid in carrying out the provisions of Legislative
- 6 Bill 645, Ninety-ninth Legislature, First Session, 2005.
- 7 No expenditures for permanent and temporary salaries and
- 8 per diems for state employees shall be made from funds appropriated
- 9 in this section."
- 10 2. On page 1, line 2, strike "71" and insert "645".

The Brashear motion to return prevailed with 38 ayes, 0 nays, 7 present and not voting, and 4 excused and not voting.

### **SELECT FILE**

**LEGISLATIVE BILL 71A.** The Brashear specific amendment, AM1780, found in this day's Journal, was adopted with 39 ayes, 0 nays, 6 present and not voting, and 4 excused and not voting.

Advanced to E & R for reengrossment.

### **AMENDMENT - Print in Journal**

Senator Brown filed the following amendment to LB 99:  
AM1772

- 1 1. Strike section 5 and insert the following section:
- 2 "Sec. 5. Section 48-418, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 48-418. The Commissioner of Labor shall, on or before
- 5 the first day of ~~July 1965~~ January 2006, appoint a state elevator
- 6 inspector, subject to the approval of the Governor, who shall work

7 under the direct supervision of the commissioner. The person so  
 8 appointed shall be (1) qualified by not less than five years'  
 9 experience in the installation, maintenance, and repair of  
 10 elevators as determined by the commissioner, (2) certified as a  
 11 qualified elevator inspector by an association accredited by the  
 12 American Society of Mechanical Engineers or have not less than five  
 13 years' journeyman experience in elevator installation, maintenance,  
 14 and inspection as determined by the Commissioner of Labor  
 15 commissioner, and shall be (3) familiar with the inspection process  
 16 provided by the Nebraska Elevator Code provided under section  
 17 48-418.12. The commissioner, subject to the approval of the  
 18 Governor, may appoint deputy inspectors possessing the same  
 19 qualifications as the state elevator inspector. A qualified  
 20 individual may apply for the position of inspector or deputy  
 21 inspector and such application shall include the applicant's social  
 22 security number, but the individual's social security number shall  
 23 not be a public record."

### UNANIMOUS CONSENT - Add Cointroducer

Senator Brashear asked unanimous consent to have his name added as cointroducer to LB 71A. No objections. So ordered.

### WITHDRAW - Cointroducer

Senator Stuhr withdrew her name as cointroducer to LB 71A.

### MOTION - Return LR 12CA to Select File

Senator Schimek moved to return LR 12CA to Select File for the following specific amendment:

FA321

Strike the enacting clause.

Senator Schimek withdrew her motion to return.

### RESOLUTION ON FINAL READING

The following resolution was read and put upon final passage:

### LEGISLATIVE RESOLUTION 12CA.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At a special election on May 9, 2006, the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, sections 7 and 19:

III-7 At the general election to be held in November 1964, one-half the

members of the Legislature, or as nearly thereto as may be practicable, shall be elected for a term of four years and the remainder for a term of two years, and thereafter all members shall be elected for a term of four years, with the manner of such election to be determined by the Legislature. When the Legislature is redistricted, the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term. Each member shall be nominated and elected in a nonpartisan manner and without any indication on the ballot that he or she is affiliated with or endorsed by any political party or organization. Each Until January 3, 2007, each member of the Legislature shall receive a salary of not to exceed one thousand dollars per month during the term of his or her office. Beginning January 3, 2007, each member of the Legislature shall receive an annual salary during his or her term of office equal to twenty-one thousand dollars in 2007 and increased annually thereafter by the change in the prior calendar year in a consumer price index designated by law, not to exceed four percent. In addition to his or her salary, each member shall receive an amount equal to his or her actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay nor perquisites other than his or her salary and expenses, and employees of the Legislature shall receive no compensation other than their salary or per diem.

III-19 The Legislature shall never grant any extra compensation to any public officer, agent, or servant after the services have been rendered nor to any contractor after the contract has been entered into, except that retirement benefits of retired public officers and employees may be adjusted to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement.

Except as otherwise provided in section 7 of this Article, the ~~The~~ compensation of any public officer, including any officer whose compensation is fixed by the Legislature, shall not be increased or diminished during his or her term of office, except that when there are members elected or appointed to ~~the Legislature or~~ the judiciary, or officers elected or appointed to a board or commission having more than one member, and the terms of such members commence and end at different times, the compensation of all members ~~of the Legislature,~~ of the judiciary, or of such board or commission may be increased or diminished at the beginning of the full term of any member thereof.

Nothing in this section shall prevent local governing bodies from reviewing and adjusting vested pension benefits periodically as prescribed by ordinance.

The surviving spouse of any retired public officer, agent, or servant, who has retired under a pension plan or system, shall be considered as having pensionable status and shall be entitled to the same benefits which may, at any time, be provided for or available to spouses of other public officers, agents, or servants who have retired under such pension plan or system at a later date, and such benefits shall not be prohibited by the restrictions of this section or of Article XIII, section 3 of the Constitution of Nebraska.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to provide for an annual salary for members of the Legislature equal to twenty-one thousand dollars in 2007 and increased annually thereafter by the change in the prior calendar year in a consumer price index designated by law, not to exceed four percent.

For

Against.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the resolution pass?' "

Voting in the affirmative, 44:

Aguilar	Connealy	Friend	Landis	Redfield
Baker	Cornett	Heidemann	Langemeier	Schimek
Bourne	Cudaback	Hudkins	Louden	Schrock
Brashear	Cunningham	Janssen	McDonald	Smith
Brown	Engel	Jensen	Mines	Stuhr
Burling	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Byars	Fischer	Kopplin	Pederson, D.	Thompson
Chambers	Flood	Kremer	Preister	Wehrbein
Combs	Foley	Kruse	Raikes	

Voting in the negative, 0.

Present and not voting, 5:

Beutler	Howard	Pahls	Price	Stuthman
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A constitutional four-fifths majority having voted in the affirmative, the resolution was declared passed for the special election.

### **MOTION - Return LB 126 to Select File**

Senator Smith moved to return LB 126 to Select File for the following specific amendment:

FA322

Strike the enacting clause.

Senator Smith withdrew his motion to return.

**BILLS ON FINAL READING****Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 126 with 37 ayes, 5 nays, and 7 present and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 126.**

A BILL FOR AN ACT relating to schools; to amend sections 32-542, 79-102, 79-401, 79-402, 79-403, 79-405, 79-407, 79-408, 79-409, 79-410, 79-413, 79-415, 79-416, 79-418, 79-419, 79-422, 79-423, 79-433, 79-434, 79-435, 79-443, 79-447, 79-449, 79-452, 79-454, 79-455, 79-470, 79-473, 79-479, 79-499, 79-4,101, 79-4,108, 79-4,111, 79-556, 79-611, 79-850, 79-857, 79-1003, 79-1026, 79-1027, 79-1031.01, 79-1083.02, and 79-1083.03, Reissue Revised Statutes of Nebraska, and sections 79-1016, 79-1022, and 79-1028, Revised Statutes Supplement, 2004; to provide for reorganization of certain school districts as prescribed; to provide for community schools, rural education transition funds, and elementary improvement grants; to change and eliminate provisions relating to school district reorganization; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 79-404, 79-406, 79-411, 79-417, 79-424 to 79-427, 79-431, 79-472, 79-477, 79-478, 79-492 to 79-495, 79-4,109, and 79-4,110, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 35:

Aguilar	Chambers	Howard	Landis	Raikes
Baker	Combs	Janssen	Mines	Redfield
Beutler	Cornett	Jensen	Pahls	Schimek
Bourne	Cunningham	Johnson	Pedersen, Dw.	Stuhr
Brashear	Engel	Kopplin	Pederson, D.	Synowiecki
Brown	Foley	Kremer	Preister	Thompson
Byars	Friend	Kruse	Price	Wehrbein

Voting in the negative, 12:

Burling	Fischer	Hudkins	McDonald
Cudaback	Flood	Langemeier	Smith
Erdman	Heidemann	Louden	Stuthman

Present and not voting, 2:

Connealy      Schrock

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 126A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 126, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Aguilar	Chambers	Friend	Landis	Redfield
Baker	Combs	Howard	Mines	Schimek
Beutler	Connealy	Janssen	Pahls	Schrock
Bourne	Cornett	Jensen	Pedersen, Dw.	Stuhr
Brashear	Cudaback	Johnson	Pederson, D.	Synowiecki
Brown	Cunningham	Kopplin	Preister	Thompson
Burling	Engel	Kremer	Price	Wehrbein
Byars	Foley	Kruse	Raikes	

Voting in the negative, 10:

Erdman	Flood	Hudkins	Louden	Smith
Fischer	Heidemann	Langemeier	McDonald	Stuthman

Not voting, 0.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 348 with 40 ayes, 3 nays, and 6 present and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 348.** With Emergency.

A BILL FOR AN ACT relating to the legal system; to amend sections

25-1140.09, 33-103, 33-106, 33-106.02, 33-107.01, 33-123 to 33-125, 33-126.02, 33-126.03, 33-126.05, 33-126.06, 33-156, and 64-108, Reissue Revised Statutes of Nebraska, and sections 24-201.01, 24-703, and 25-2804, Revised Statutes Supplement, 2004; to change provisions relating to judges' salaries and retirement, court reporters, court fees, and notaries public; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 44:

Aguilar	Combs	Foley	Kremer	Price
Baker	Connealy	Friend	Kruse	Raikes
Beutler	Cornett	Heidemann	Landis	Redfield
Bourne	Cudaback	Howard	Langemeier	Schimek
Brashear	Cunningham	Hudkins	Louden	Schrock
Brown	Engel	Janssen	McDonald	Stuhr
Burling	Erdman	Jensen	Pahls	Thompson
Byars	Fischer	Johnson	Pedersen, Dw.	Wehrbein
Chambers	Flood	Kopplin	Pederson, D.	

Voting in the negative, 3:

Smith	Stuthman	Synowiecki
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Present and not voting, 2:

Mines	Preister
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 348A.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 348, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 45:

Aguilar	Combs	Foley	Kremer	Pederson, D.
Baker	Connealy	Friend	Kruse	Price
Beutler	Cornett	Heidemann	Landis	Raikes
Bourne	Cudaback	Howard	Langemeier	Redfield
Brashear	Cunningham	Hudkins	Louden	Schrock
Brown	Engel	Janssen	McDonald	Smith
Burling	Erdman	Jensen	Mines	Stuhr
Byars	Fischer	Johnson	Pahls	Thompson
Chambers	Flood	Kopplin	Pedersen, Dw.	Wehrbein

Voting in the negative, 0.

Present and not voting, 4:

Preister	Schimek	Stuthman	Synowiecki
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A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

#### **LEGISLATIVE BILL 114.**

A BILL FOR AN ACT relating to schools; to amend sections 79-214 and 79-220, Reissue Revised Statutes of Nebraska; to change provisions relating to entrance requirements; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Cornett	Howard	McDonald	Smith
Baker	Cudaback	Hudkins	Mines	Stuhr
Beutler	Cunningham	Janssen	Pahls	Stuthman
Brashear	Engel	Jensen	Pederson, D.	Synowiecki
Brown	Erdman	Kopplin	Preister	Thompson
Burling	Fischer	Kremer	Price	Wehrbein
Byars	Flood	Kruse	Raikes	
Chambers	Foley	Landis	Redfield	
Combs	Friend	Langemeier	Schimek	
Connealy	Heidemann	Louden	Schrock	

Voting in the negative, 0.

Present and not voting, 2:

Bourne	Johnson
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Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 40.** With Emergency.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 58-703, 58-706, 58-708, 76-901, 76-903, and 77-1327, Reissue Revised Statutes of Nebraska, and sections 66-1519 and 71-812, Revised Statutes Supplement, 2004; to change and eliminate provisions relating to the Affordable Housing Trust Fund, the Petroleum Release Remedial Action Cash Fund, the Behavioral Health Services Fund, and the documentary stamp tax; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'" "

Voting in the affirmative, 40:

Aguilar	Chambers	Foley	Landis	Redfield
Baker	Combs	Howard	McDonald	Schimek
Beutler	Connealy	Hudkins	Mines	Schrock
Bourne	Cornett	Janssen	Pahls	Stuhr
Brashear	Cudaback	Jensen	Pederson, D.	Stuthman
Brown	Cunningham	Johnson	Preister	Synowiecki
Burling	Engel	Kopplin	Price	Thompson
Byars	Flood	Kruse	Raikes	Wehrbein

Voting in the negative, 7:

Erdman	Friend	Langemeier	Smith
Fischer	Kremer	Louden	

Present and not voting, 1:

Heidemann

Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 40A.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 40, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Aguilar	Combs	Heidemann	Langemeier	Schimek
Baker	Connealy	Howard	McDonald	Schrock
Beutler	Cornett	Hudkins	Mines	Smith
Bourne	Cudaback	Janssen	Pahls	Stuhr
Brashear	Cunningham	Jensen	Pederson, D.	Stuthman
Brown	Engel	Johnson	Preister	Synowiecki
Burling	Erdman	Kopplin	Price	Thompson
Byars	Flood	Kruse	Raikes	Wehrbein
Chambers	Foley	Landis	Redfield	

Voting in the negative, 0.

Present and not voting, 4:

Fischer	Friend	Kremer	Louden
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Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 146.**

A BILL FOR AN ACT relating to nursing; to amend section 71-163, Reissue Revised Statutes of Nebraska; to adopt the Nursing Faculty Student Loan Act; to delete obsolete provisions; to harmonize provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Schimek
Baker	Cornett	Howard	Louden	Schrock
Beutler	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

#### **LEGISLATIVE BILL 146A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 146, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Connealy	Heidemann	Langemeier	Smith
Baker	Cornett	Howard	McDonald	Stuhr
Beutler	Cudaback	Hudkins	Mines	Stuthman
Bourne	Cunningham	Janssen	Pahls	Synowiecki
Brashear	Engel	Jensen	Pederson, D.	Thompson
Brown	Erdman	Johnson	Preister	Wehrbein
Burling	Fischer	Kopplin	Price	
Byars	Flood	Kremer	Raikes	
Chambers	Foley	Kruse	Redfield	
Combs	Friend	Landis	Schimek	

Voting in the negative, 0.

Present and not voting, 2:

Louden            Schrock

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 332.** With Emergency.

A BILL FOR AN ACT relating to compulsive gamblers assistance programs; to state intent regarding funding for compulsive gamblers assistance programs; to provide an operative date; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Aguilar	Cornett	Heidemann	Landis	Schimek
Baker	Cudaback	Howard	Langemeier	Schrock
Beutler	Cunningham	Hudkins	Louden	Smith
Brashear	Engel	Janssen	McDonald	Stuhr
Burling	Erdman	Jensen	Mines	Stuthman
Byars	Fischer	Johnson	Pahls	Synowiecki
Chambers	Flood	Kopplin	Preister	Thompson
Combs	Foley	Kremer	Price	Wehrbein
Connealy	Friend	Kruse	Redfield	

Voting in the negative, 0.

Present and not voting, 4:

Bourne	Brown	Pederson, D.	Raikes
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Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

**LEGISLATIVE BILL 332A.** With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 332, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure

having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 44:

Aguilar	Connealy	Friend	Landis	Schimek
Baker	Cornett	Heidemann	Langemeier	Schrock
Beutler	Cudaback	Howard	Louden	Smith
Brashear	Cunningham	Hudkins	McDonald	Stuhr
Brown	Engel	Janssen	Mines	Stuthman
Burling	Erdman	Jensen	Pahls	Synowiecki
Byars	Fischer	Johnson	Preister	Thompson
Chambers	Flood	Kopplin	Price	Wehrbein
Combs	Foley	Kruse	Redfield	

Voting in the negative, 0.

Present and not voting, 4:

Bourne              Kremer              Pederson, D.      Raikes

Excused and not voting, 1:

Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 713 with 41 ayes, 2 nays, 5 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 713.**

A BILL FOR AN ACT relating to sexual offenses; to amend sections 29-110, 29-2264, 29-4003, 29-4004, 29-4009, and 29-4013, Revised Statutes Supplement, 2004; to provide duties regarding collecting evidence of sexual assault; to change provisions relating to time limitations for actions on certain offenses, probation, and sex offender registration; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Schimek
Baker	Cornett	Howard	Louden	Schrock
Beutler	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

### **LEGISLATIVE BILL 211.**

A BILL FOR AN ACT relating to the Nebraska State Historical Society; to adopt the Nebraska Archaeological Resources Preservation Act; to provide penalties; to create the Statewide Cemetery Registry; to provide powers and duties; and to provide operative dates.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Schimek
Baker	Cornett	Howard	Louden	Schrock
Beutler	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 211A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 211, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Schimek
Baker	Cornett	Howard	Louden	Schrock
Beutler	Cudaback	Hudkins	McDonald	Smith
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Landis	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 28.**

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701, Revised Statutes Supplement, 2004; to provide an income tax credit for certain charitable contributions; to provide a termination date; to provide an operative date; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 39:

Aguilar	Cornett	Friend	Kruse	Schimek
Baker	Cudaback	Heidemann	Langemeier	Schrock
Bourne	Cunningham	Howard	Louden	Smith
Brashear	Engel	Hudkins	McDonald	Stuhr
Burling	Erdman	Janssen	Mines	Synowiecki
Byars	Fischer	Jensen	Pahls	Thompson
Combs	Flood	Johnson	Pederson, D.	Wehrbein
Connealy	Foley	Kopplin	Price	

Voting in the negative, 4:

Chambers	Landis	Raikes	Redfield
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Present and not voting, 5:

Beutler	Brown	Kremer	Preister	Stuthman
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Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 28A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 28, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Cudaback	Howard	Langemeier	Schrock
Bourne	Cunningham	Hudkins	Louden	Smith
Brown	Engel	Janssen	McDonald	Stuhr
Burling	Erdman	Jensen	Mines	Stuthman
Byars	Fischer	Johnson	Pahls	Synowiecki
Chambers	Flood	Kopplin	Pederson, D.	Thompson
Combs	Foley	Kremer	Price	Wehrbein
Connealy	Friend	Kruse	Raikes	
Cornett	Heidemann	Landis	Schimek	

Voting in the negative, 0.

Present and not voting, 5:

Baker Beutler Brashear Preister Redfield

Excused and not voting, 1:

Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

## **SPEAKER BRASHEAR PRESIDING**

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 12CA, LBs 126, 126A, 348, 348A, 114, 40, 40A, 146, 146A, 332, 332A, 713, 211, 211A, 28, and 28A.

## **SELECT COMMITTEE REPORTS**

### **Enrollment and Review**

#### **Correctly Reengrossed**

The following bill was correctly reengrossed: LB 71A.

#### **Correctly Engrossed**

The following bills were correctly engrossed: LBs 116, 373, 577, 589, 589A, 594, and 645.

ER9052

#### **Enrollment and Review Change to LB 71A**

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Brashear amendment, AM1780, on page 1, line 4, a comma has been inserted after "Council".

ER9051

#### **Enrollment and Review Change to LB 116**

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, the matter beginning with "child" in line 1 through line 4 has been struck and "children; to amend sections 28-714 to 28-724, 28-727, 43-1724, 43-3342.03, 43-3709, and 71-6906, Reissue Revised Statutes of Nebraska, and sections 28-710, 28-711, 28-713, 28-713.01, 28-725, and 28-726, Revised Statutes Supplement, 2004; to name an act; to change

provisions relating to child abuse and neglect reports and the central register of child protection cases; to provide for a tracking system of child protection cases; to eliminate a registry; to provide a penalty for failure to withhold income for child support obligations as prescribed; to change provisions relating to the State Disbursement Unit; to harmonize provisions; and to repeal the original sections." inserted.

(Signed) Michael Flood, Chairperson

### **MOTION - Print in Journal**

Senator Brashear filed the following motion:

Suspend Rule 6, Section 3, and Rule 7, Sections 3 and 7, and to indefinitely postpone the following bills whose provisions have been included in other enacted legislation or whose companion bill has been indefinitely postponed: LBs 8, 12, 12A, 22, 25, 29, 92, 110, 123, 130, 151, 167, 170, 171, 174, 177, 187, 212, 218, 237, 240, 251, 272, 273, 273A, 300, 302, 330, 365, 367, 368, 395, 410, 411, 412, 444, 446, 466, 474, 494, 519, 532, 558, 597, 603, 619, 691, 703, 716, 734, 738, 755, 756, and 758.

### **MOTION - Recess**

Senator Chambers moved to recess until 5:30 p.m. The motion failed with 7 ayes, 34 nays, 7 present and not voting, and 1 excused and not voting.

### **VISITOR**

The Doctor of the Day was Dr. Dorothy Zink from Omaha.

### **ADJOURNMENT**

At 4:17 p.m., on a motion by Senator Beutler, the Legislature adjourned until 10:00 a.m., Thursday, June 2, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

**EIGHTY-NINTH DAY - JUNE 2, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**EIGHTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, June 2, 2005

**PRAYER**

The prayer was offered by Senator Kruse.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brown, Landis, Louden, Dw. Pedersen, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-eighth day was approved.

**PRESENTED TO THE SECRETARY OF STATE**

Presented to the Secretary of State on June 1, 2005, at 4:29 p.m. was the following: LR 12CA.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on June 1, 2005, at 4:27 p.m. were the following: LBs 126, 126A, 348e, 348Ae, 114, 40e, 40Ae, 146, 146A, 332e, 332Ae, 713, 211, 211A, 28, and 28A.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**BILLS ON FINAL READING****Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 13 with 33 ayes, 3 nays, 8 present and not voting, and 5 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 13.** With Emergency.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-106, 48-118, 48-120.02, 48-121.02, 48-125, 48-144, 48-144.03, 48-145, 48-145.01, 48-145.02, 48-145.04, 48-146.02, 48-152, 48-155, 48-157, 48-158, 48-159, 48-162, 48-162.01, 48-162.02, 48-163, 48-165, 48-177, 48-188, 48-1,102, 48-1,110, and 48-1,116, Reissue Revised Statutes of Nebraska; to exempt certain agricultural workers from coverage; to change provisions relating to court administration and to provide for the appointment of a court administrator; to change provisions relating to enforcement of the Nebraska Workers' Compensation Act, vocational rehabilitation, awards or judgments against the state, third-party claims and dismissal of a cause of action, and dispensation of prescription drugs; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'" "

Voting in the affirmative, 46:

Aguilar	Cornett	Howard	Louden	Schimek
Baker	Cudaback	Hudkins	McDonald	Smith
Beutler	Cunningham	Janssen	Mines	Stuhr
Bourne	Engel	Jensen	Pahls	Stuthman
Brashear	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Brown	Fischer	Kopplin	Pederson, D.	Wehrbein
Burling	Flood	Kremer	Preister	
Byars	Foley	Kruse	Price	
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	

Voting in the negative, 0.

Present and not voting, 2:

Chambers      Schrock

Excused and not voting, 1:

Thompson

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

### **LEGISLATIVE BILL 13A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 13, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Cornett	Howard	Louden	Schimek
Baker	Cudaback	Hudkins	McDonald	Schrock
Beutler	Cunningham	Janssen	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Brashear	Erdman	Johnson	Pedersen, Dw.	Stuthman
Brown	Fischer	Kopplin	Pederson, D.	Synowiecki
Burling	Flood	Kremer	Preister	Wehrbein
Byars	Foley	Kruse	Price	
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	

Voting in the negative, 0.

Present and not voting, 1:

Chambers

Excused and not voting, 1:

Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 343 with 39 ayes, 2 nays, 7 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 343.** With Emergency.

A BILL FOR AN ACT relating to the Nebraska Public Safety Wireless Communication System Act; to amend section 58-202, Reissue Revised Statutes of Nebraska, and sections 86-401 to 86-403, 86-416 to 86-418, 86-516, 86-543, and 86-572, Revised Statutes Supplement, 2004; to rename and change and eliminate provisions of the act; to create and eliminate advisory boards; to harmonize provisions; to repeal the original sections; to outright repeal sections 86-404 to 86-406, 86-409 to 86-415, and 86-419, Revised Statutes Supplement, 2004; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Aguilar	Combs	Friend	Kruse	Price
Baker	Connealy	Heidemann	Landis	Raikes
Beutler	Cornett	Howard	Langemeier	Redfield
Bourne	Cudaback	Hudkins	Louden	Schrock
Brashear	Cunningham	Janssen	McDonald	Smith
Brown	Engel	Jensen	Pahls	Stuhr
Burling	Erdman	Johnson	Pedersen, Dw.	Stuthman
Byars	Fischer	Kopplin	Pederson, D.	Synowiecki
Chambers	Foley	Kremer	Preister	Wehrbein

Voting in the negative, 3:

Flood	Mines	Schimek
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Excused and not voting, 1:

Thompson

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 573.** With Emergency.

A BILL FOR AN ACT relating to horseracing; to amend sections 2-1207 and 2-1213, Reissue Revised Statutes of Nebraska, and sections 2-1203 and 2-1208, Revised Statutes Supplement, 2004; to change provisions relating to horseracing; to provide duties; to repeal the original sections; and to declare

an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 45:

Aguilar	Connealy	Friend	Kruse	Preister
Baker	Cornett	Heidemann	Landis	Raikes
Beutler	Cudaback	Howard	Langemeier	Redfield
Bourne	Cunningham	Hudkins	Louden	Schrock
Brashear	Engel	Janssen	McDonald	Smith
Brown	Erdman	Jensen	Mines	Stuhr
Burling	Fischer	Johnson	Pahls	Stuthman
Byars	Flood	Kopplin	Pedersen, Dw.	Synowiecki
Combs	Foley	Kremer	Pederson, D.	Wehrbein

Voting in the negative, 0.

Present and not voting, 3:

Chambers	Price	Schimek
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Excused and not voting, 1:

Thompson

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 538 with 41 ayes, 2 nays, 5 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 538.**

A BILL FOR AN ACT relating to criminal justice; to amend sections 28-929, 28-930, 47-621 to 47-625, 47-627, 47-630, 47-632, 71-1,148, and 83-4,142, Reissue Revised Statutes of Nebraska, and sections 28-931, 28-931.01, 29-2246, 29-2252, 29-2257, 29-2258, 29-2262.06, 29-2269, 81-1423, 81-1425, 83-1,102, 83-1,135, and 83-4,143, Revised Statutes Supplement, 2004; to change offenses relating to assaulting an officer; to change and eliminate provisions relating to probation, medical parole, intensive supervision probation, community corrections, parole, and

incarceration work camps; to require fees as prescribed; to eliminate a duty of the Department of Health and Human Services Regulation and Licensure; to harmonize provisions; to repeal the original sections; and to outright repeal section 47-626, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Redfield
Baker	Cornett	Howard	Louden	Schimek
Beutler	Cudaback	Hudkins	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Wehrbein
Chambers	Foley	Kruse	Price	
Combs	Friend	Landis	Raikes	

Voting in the negative, 0.

Excused and not voting, 1:

Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

### **LEGISLATIVE BILL 538A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 538, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Redfield
Baker	Cornett	Howard	Louden	Schimek
Beutler	Cudaback	Hudkins	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Wehrbein
Chambers	Foley	Kruse	Price	
Combs	Friend	Landis	Raikes	

Voting in the negative, 0.

Excused and not voting, 1:

Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

#### **LEGISLATIVE BILL 709.** With Emergency.

A BILL FOR AN ACT relating to health care; to adopt the Medicaid Reform Act and the Long-Term Care Partnership Program Development Act; to provide termination dates; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Aguilar	Connealy	Friend	Kruse	Price
Baker	Cornett	Heidemann	Langemeier	Raikes
Beutler	Cudaback	Howard	Louden	Redfield
Bourne	Cunningham	Hudkins	McDonald	Schimek
Brashear	Engel	Janssen	Mines	Schrock
Brown	Erdman	Jensen	Pahls	Smith
Burling	Fischer	Johnson	Pedersen, Dw.	Stuhr
Byars	Flood	Kopplin	Pederson, D.	Stuthman
Combs	Foley	Kremer	Preister	Wehrbein

Voting in the negative, 2:

Chambers      Landis

Present and not voting, 1:

Synowiecki

Excused and not voting, 1:

Thompson

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

### **LEGISLATIVE BILL 227.**

A BILL FOR AN ACT relating to veterans; to amend section 12-1301, Revised Statutes Supplement, 2004, section 37-420, Reissue Revised Statutes of Nebraska, as amended by section 6, Legislative Bill 54, Ninety-ninth Legislature, First Session, 2005, and section 6, Legislative Bill 162, Ninety-ninth Legislature, First Session, 2005, and section 37-421, Reissue Revised Statutes of Nebraska, as amended by section 7, Legislative Bill 162, Ninety-ninth Legislature, First Session, 2005; to change provisions relating to the funding of veteran cemeteries and veteran hunting and fishing permits; to provide operative dates; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Conneally	Heidemann	Langemeier	Redfield
Baker	Cornett	Howard	Louden	Schimek
Beutler	Cudaback	Hudkins	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Wehrbein
Chambers	Foley	Kruse	Price	
Combs	Friend	Landis	Raikes	

Voting in the negative, 0.

Excused and not voting, 1:

Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 256 with 42 ayes, 2 nays, 4 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 256.**

A BILL FOR AN ACT relating to public health and welfare; to amend sections 44-2803, 44-2824, 44-2827, 71-121.01, 71-168, 71-168.02, 71-1,103, 71-1,132.05, 71-1,132.07, 71-1,132.08, 71-1,132.11, 71-1,132.18, 71-1,143, 71-1,198, 71-1,339, 71-541, 71-1405, 71-1704, 71-1706, 71-1707, 71-1709.02, 71-1714, 71-1716, 71-1716.02, 71-1716.03, 71-1716.05, 71-1717, 71-1718.01, 71-1718.02, 71-1721, 71-1721.07 to 71-1726.02, 71-1729 to 71-1731, 71-1735, 71-1737, 71-1738, 71-1743, 71-1747, 71-1749, 71-1750, 71-1753 to 71-1755, 71-1757, 71-1913.01, 71-2610.01, 71-5191, 77-2704.09, 79-214, and 79-221, Reissue Revised Statutes of Nebraska, and sections 18-1738, 28-401, 71-1,142, 71-3,106, 83-4,157, and 83-4,159, Revised Statutes Supplement, 2004; to adopt the Clinical Nurse Specialist Practice Act and the Advanced Practice Registered Nurse Licensure Act; to rename the Advanced Practice Registered Nurse Act; to eliminate a term relating to the Nurse Practice Act; to change provisions relating to the Board of Nursing and the Board of Advanced Practice Registered Nurses; to change provisions relating to licensure of advanced practice registered nurses; to provide for certification of nurse practitioners; to name the Certified Registered Nurse Anesthetist Act; to change provisions relating to regulation of certified nurse midwives, certified registered nurse anesthetists, and clinical nurse specialists; to provide exemptions from the Nebraska Cosmetology Act for airbrush tanning and temporary nonpermanent airbrush tattooing; to eliminate an advisory council; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 71-1705 and 71-1736, Reissue Revised Statutes of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Redfield
Baker	Cornett	Howard	Louden	Schimek
Beutler	Cudaback	Hudkins	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Wehrbein
Chambers	Foley	Kruse	Price	
Combs	Friend	Landis	Raikes	

Voting in the negative, 0.

Excused and not voting, 1:

Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bills were read and put upon final passage:

#### **LEGISLATIVE BILL 256A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 256, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Redfield
Baker	Cornett	Howard	Louden	Schimek
Beutler	Cudaback	Hudkins	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Wehrbein
Chambers	Foley	Kruse	Price	
Combs	Friend	Landis	Raikes	

Voting in the negative, 0.

Excused and not voting, 1:

Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 465.**

A BILL FOR AN ACT relating to financial transactions; to amend sections 44-371 and 44-1089, Reissue Revised Statutes of Nebraska, and sections 8-1,131 and 21-1799, Revised Statutes Supplement, 2004; to provide powers relating to health savings accounts; to provide and change provisions relating to exemptions from claims of creditors for medical and health savings accounts, annuity contracts, and certain insurance policies; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

Aguilar	Connealy	Heidemann	Langemeier	Redfield
Baker	Cornett	Howard	Louden	Schimek
Beutler	Cudaback	Hudkins	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Smith
Brashear	Engel	Jensen	Pahls	Stuhr
Brown	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Wehrbein
Chambers	Foley	Kruse	Price	
Combs	Friend	Landis	Raikes	

Voting in the negative, 0.

Excused and not voting, 1:

Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 484 with 41 ayes, 3 nays, 4 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

**LEGISLATIVE BILL 484.** With Emergency.

A BILL FOR AN ACT relating to employment; to amend sections 48-310, 48-601, 48-602, 48-619, 48-627, 48-628, 48-648, 48-648.01, 48-649, 48-654, and 48-664, Reissue Revised Statutes of Nebraska; to change provisions relating to child labor; to change and provide provisions of employment security law relating to tax avoidance, wage determination, fund withdrawals, benefit eligibility, and tax liability and rate; to provide for electronic payments, reports, and reimbursements by employers under the Employment Security Law as prescribed; to provide penalties; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 47:

Aguilar	Connealy	Heidemann	Langemeier	Redfield
Baker	Cornett	Howard	Louden	Schimek
Beutler	Cudaback	Hudkins	McDonald	Schrock
Bourne	Cunningham	Janssen	Mines	Stuhr
Brashear	Engel	Jensen	Pahls	Stuthman
Brown	Erdman	Johnson	Pedersen, Dw.	Synowiecki
Burling	Fischer	Kopplin	Pederson, D.	Wehrbein
Byars	Flood	Kremer	Preister	
Chambers	Foley	Kruse	Price	
Combs	Friend	Landis	Raikes	

Voting in the negative, 1:

Smith

Excused and not voting, 1:

Thompson

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bills were read and put upon final passage:

### **LEGISLATIVE BILL 557.**

A BILL FOR AN ACT relating to the Nebraska Visitors Development Act; to amend section 81-1258, Reissue Revised Statutes of Nebraska; to change permitted uses of lodging tax revenue; to harmonize provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure

having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Cornett	Howard	Louden	Schimek
Baker	Cudaback	Hudkins	McDonald	Schrock
Beutler	Cunningham	Janssen	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Brashear	Erdman	Johnson	Pedersen, Dw.	Stuthman
Brown	Fischer	Kopplin	Pederson, D.	Synowiecki
Burling	Flood	Kremer	Preister	Wehrbein
Byars	Foley	Kruse	Price	
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	

Voting in the negative, 0.

Present and not voting, 1:

Chambers

Excused and not voting, 1:

Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

## LEGISLATIVE BILL 761.

A BILL FOR AN ACT relating to the State Foster Care Review Board; to amend section 43-1302, Reissue Revised Statutes of Nebraska; to change provisions relating to membership; to harmonize provisions; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Connealy	Friend	Landis	Raikes
Baker	Cornett	Heidemann	Langemeier	Redfield
Beutler	Cudaback	Howard	Louden	Schimek
Bourne	Cunningham	Hudkins	McDonald	Smith
Brashear	Engel	Janssen	Pahls	Stuhr
Brown	Erdman	Jensen	Pedersen, Dw.	Synowiecki
Burling	Fischer	Johnson	Pederson, D.	Wehrbein
Byars	Flood	Kopplin	Preister	
Combs	Foley	Kremer	Price	

Voting in the negative, 1:

Kruse

Present and not voting, 4:

Chambers	Mines	Schrock	Stuthman
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Excused and not voting, 1:

Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 761A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 761, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

Aguilar	Cornett	Heidemann	Langemeier	Redfield
Baker	Cudaback	Howard	Louden	Schimek
Beutler	Cunningham	Hudkins	McDonald	Schrock
Bourne	Engel	Janssen	Pahls	Smith
Brashear	Erdman	Jensen	Pedersen, Dw.	Stuhr
Burling	Fischer	Johnson	Pederson, D.	Wehrbein
Byars	Flood	Kopplin	Preister	
Combs	Foley	Kremer	Price	
Connealy	Friend	Landis	Raikes	

Voting in the negative, 1:

Kruse

Present and not voting, 5:

Brown	Chambers	Mines	Stuthman	Synowiecki
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Excused and not voting, 1:

Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

## **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 9.** Read. Considered.

LR 9 was adopted with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

**LEGISLATIVE RESOLUTION 15.** Read. Considered.

LR 15 was adopted with 30 ayes, 0 nays, 18 present and not voting, and 1 excused and not voting.

**LEGISLATIVE RESOLUTION 76.** Read. Considered.

LR 76 was adopted with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

**LEGISLATIVE RESOLUTION 65.** Read. Considered.

LR 65 was adopted with 32 ayes, 0 nays, 15 present and not voting, and 2 excused and not voting.

**LEGISLATIVE RESOLUTION 230.** Read. Considered.

LR 230 was adopted with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

## **SPEAKER BRASHEAR PRESIDING**

### **SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 13, 13A, 343, 573, 538, 538A, 709, 227, 256, 256A, 465, 484, 557, 761, and 761A.

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 9, 15, 76, 65, and 230.

## **VISITORS**

Visitors to the Chamber were Larry and Carol Jahrmarkt from Hooper; Senator Beutler's mother, sister, and nephew, Dorothy Beutler, and Cindy and Zach Gehrig; and 38 fourth-grade students and teachers from Hill Elementary School, Lincoln.

**RECESS**

At 11:38 a.m., on a motion by Senator Heidemann, the Legislature recessed until 1:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senator Thompson who was excused until she arrives.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 98.** Read. Considered.

Senator Friend renewed the Friend et al. pending amendment, AM1757, found on page 1841.

Senator Friend withdrew the Friend et al. amendment.

Senator Foley renewed his pending amendment, AM1714, found on page 1848.

Pending.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on June 2, 2005, at 1:45 p.m. were the following: LBs 13e, 13A, 343e, 573e, 538, 538A, 709e, 227, 256, 256A, 465, 484e, 557, 761, and 761A.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**MESSAGES FROM THE GOVERNOR**

June 2, 2005

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 28, 28A, 40e, 40Ae, 114, 146, 146A, 211, 211A, 332e, 332Ae, 348e, 348Ae and 713 were received in my office on June 1, 2005.

Engrossed Legislative Bills 13e, 13A, 227, 256, 256A, 343e, 465, 484e, 538, 538A, 557, 573e, 709e, and 761, 761A were received in my office on June 2, 2005.

I signed these bills and delivered them to the Secretary of State on June 2, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

June 2, 2005

Mr. President, Mr. Speaker, and  
Members of the Legislature  
State Capitol  
Lincoln, Nebraska 68509

Dear Mr. President and Members of the Legislature:

I am returning LB 126 and LB 126A without my signature and with my objections.

Almost without exception in Nebraska's history, decisions regarding the mandatory merger or closure of our local school districts are permeated with strong emotion. You and I have received immeasurable public input from both supporters and opponents of this significant legislation.

After having diligently reviewed the very detailed provisions of LB 126, I do not believe the bill achieves its original goals of improved efficiency and of an improved quality education that the students of our small schools receive. The legislation now requires the expenditure of nearly three million dollars during the first three years to implement its provisions.

Furthermore, I firmly believe that the forced consolidation presented by the bill will, in the long run, alienate parents from their schools rather than involving them even more in the decisions affecting the management and structure of their children's public education. Voluntary school district consolidation is already occurring without government intervention. Voluntary consolidation implemented by local decision-making rather than a state mandate has a better opportunity of uniting communities.

I have visited several Class I school districts and I have been in many K-12 districts over the years. Both are providing a quality education for Nebraska students.

I commend Senator Raikes and those who worked tirelessly to try to achieve a final legislative solution; however, the compromise proposed in LB 126 neither advances the cause of efficiency in school governance nor ensures a better quality of education for children who are educated in Class I and Class VI schools throughout Nebraska.

For these reasons, I urge you to sustain my vetoes of these bills.

Sincerely,  
(Signed) Dave Heineman  
Governor

### **MOTIONS - Print in Journal**

Senator Raikes filed the following motion to LB 126:

That LB 126 becomes law notwithstanding the objections of the Governor.

Senator Raikes filed the following motion to LB 126A:

That LB 126A becomes law notwithstanding the objections of the Governor.

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 242.** Introduced by Agriculture Committee: Kremer, 34, Chairperson; Burling, 33; Cunningham, 40; Erdman, 47; Fischer, 43; Wehrbein, 2.

**PURPOSE:** The purpose of this resolution is to examine and address issues within the jurisdiction of the Agriculture Committee that may arise during the interim, including, but not necessarily limited to, issues associated with state-level commodity promotion programs, animal identification, plant and animal disease issues, and emergency planning and management.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:**

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

**REPORT OF THE EXECUTIVE BOARD**2005 Resolutions calling for an Interim Study

LR 104 Rereferred from Government, Military and Veterans Affairs to Natural Resources and Government, Military and Veterans Affairs, jointly

(Signed) L. Patrick Engel, Chairperson  
Legislative Council, Executive Board

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 98.** The Foley pending amendment, AM1714, found on page 1848 and considered in this day's Journal, was renewed.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

Senator Foley moved for a call of the house. The motion prevailed with 37 ayes, 0 nays, and 12 not voting.

The Foley amendment lost with 20 ayes, 25 nays, and 4 present and not voting.

The Chair declared the call raised.

Senator Bourne offered the following amendment:  
FA324

1 1. Strike resolved 4 and insert the following new  
2 resolved:  
3 "4. That if Mr. Hergert fails to resign within sixty  
4 days of receiving notice of this resolution, the Executive Board of  
5 the Legislative Council shall meet forthwith and appoint a special  
6 committee of the Legislature to consider and recommend legislative  
7 options. The Executive Board may hire special counsel and shall  
8 finance whatever investigation is necessary to aid the special  
9 committee in reaching a proper determination. The special  
10 committee shall render its recommendations to the Executive Board  
11 by January of 2006."

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 30 ayes, 1 nay, and 18 not voting.

The Bourne amendment was adopted with 33 ayes, 2 nays, 12 present and not voting, and 2 excused and not voting.

Pursuant to Rule 4, Section 5, Senator Erdman requested that Legislative Resolution 98 require an affirmative vote of a majority of the elected members.

LR 98 was adopted with 31 ayes, 0 nays, 17 present and not voting, and 1 excused and not voting.

**LEGISLATIVE RESOLUTION 223.** Read. Considered.

LR 223 was adopted with 31 ayes, 0 nays, 17 present and not voting, and 1 excused and not voting.

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Heidemann asked unanimous consent to have his name added as cointroducer to LR 135. No objections. So ordered.

Senator Cudaback asked unanimous consent to have his name added as cointroducer to LB 605. No objections. So ordered.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 243.** Introduced by Mines, 18; Aguilar, 35; Baker, 44; Beutler, 28; Bourne, 8; Brashear, 4; Brown, 6; Burling, 33; Byars, 30; Combs, 32; Connealy, 16; Cornett, 45; Cudaback, 36; Cunningham, 40; Engel, 17; Erdman, 47; Fischer, 43; Flood, 19; Foley, 29; Friend, 10; Heidemann, 1; Howard, 9; Hudkins, 21; Janssen, 15; Jensen, 20; Johnson, 37; Kopplin, 3; Kremer, 34; Kruse, 13; Landis, 46; Langemeier, 23; Louden, 49; McDonald, 41; Pahls, 31; Dw. Pedersen, 39; D. Pederson, 42; Preister, 5; Price, 26; Raikes, 25; Redfield, 12; Schimek, 27; Schrock, 38; Smith, 48; Stuhr, 24; Stuthman, 22; Thompson, 14; Wehrbein, 2.

WHEREAS, Tom Nesbitt was appointed Colonel of the Nebraska State Patrol by then-Governor Mike Johanns on January 7, 1999; and

WHEREAS, Colonel Nesbitt's last day at the Nebraska State Patrol will be June 3, 2005; and

WHEREAS, under the leadership of Colonel Nesbitt, the Nebraska State Patrol made significant progress in many organizational and operational areas, including completion of the new training academy, service-oriented policing and problem-solving with communities, establishment of protocols for safe and coordinated responses to methamphetamine labs, development of protocols to prevent Internet crimes against children, implementation of numerous educational and public awareness programs, as well as the retention of officers in the Carrier Enforcement Division with passage of LB 470 in 2002; and

WHEREAS, under the leadership of Colonel Nesbitt, the Nebraska State Patrol has enhanced partnerships to significantly improve working relationships with local law enforcement and public safety agencies

resulting in better cooperation and information sharing; and

WHEREAS, Colonel Nesbitt's twenty-six years of work at the Nebraska State Patrol have been distinguished by his dedication, professionalism, and integrity.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That Colonel Tom Nesbitt be congratulated for his commitment to public service and distinguished career in law enforcement to protect and serve the citizens of the State of Nebraska.

2. That a copy of this resolution be sent to Colonel Tom Nesbitt.

Laid over.

### **VISITORS**

Visitors to the Chamber were Matt Samp from Bellevue and Gary DiSilvestro from Omaha.

### **ADJOURNMENT**

At 4:56 p.m., on a motion by Senator Janssen, the Legislature adjourned until 9:00 a.m., Friday, June 3, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature



**NINETIETH DAY - JUNE 3, 2005**

**LEGISLATIVE JOURNAL**

**NINETY-NINTH LEGISLATURE  
FIRST SESSION**

**NINETIETH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, June 3, 2005

**PRAYER**

The prayer was offered by Bishop Ann Sherer, United Methodist Churches of Nebraska.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brown, Landis, Synowiecki, and Thompson who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the eighty-ninth day was approved.

**STANDING COMMITTEE REPORT  
Education**

**LEGISLATIVE BILL 239.** Placed on General File.

(Signed) Ron Raikes, Chairperson

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of June 3, 2005, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Bromm, Curt  
Papillion - La Vista Public Schools

Ruth Mueller Robak LLC  
Metro Omaha Theme Park

## REPORTS

The following reports were received by the Legislature:

### **Investment Finance Authority**

2005 Series A & B Single Family Housing Revenue Bonds Notice

### **Performance Audit Committee, Legislative**

Nebraska Medicaid Program's Collection of Improper Payments

### **Roads, Department of**

Board of Examiners for County Highway and City Street Superintendents  
Thirty-Fifth Annual Report

## BILLS ON FINAL READING

The following bills were read and put upon final passage:

### **LEGISLATIVE BILL 645.**

A BILL FOR AN ACT relating to telecommunications and technology; to amend sections 25-2602.01 and 86-575, Revised Statutes Supplement, 2004; to define terms; to prohibit agencies, political subdivisions, and public power suppliers from providing certain technology-based services as prescribed; to create a task force; to eliminate provisions relating to county telephone systems; to harmonize provisions; to repeal the original sections; and to outright repeal sections 86-581 to 86-592, Revised Statutes Supplement, 2004.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 37:

Aguilar	Cudaback	Heidemann	McDonald	Redfield
Baker	Cunningham	Hudkins	Mines	Schrock
Beutler	Engel	Janssen	Pahls	Smith
Brashear	Erdman	Jensen	Pedersen, Dw.	Stuhr
Burling	Fischer	Johnson	Pederson, D.	Wehrbein
Byars	Flood	Kopplin	Preister	
Combs	Foley	Kremer	Price	
Cornett	Friend	Langemeier	Raikes	

Voting in the negative, 8:

Chambers	Howard	Landis	Schimek
Connealy	Kruse	Louden	Stuthman

Present and not voting, 1:

Bourne

Excused and not voting, 3:

Brown            Synowiecki    Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **LEGISLATIVE BILL 71A.**

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 645, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 43:

Aguilar	Cudaback	Howard	Langemeier	Raikes
Baker	Cunningham	Hudkins	Louden	Redfield
Beutler	Engel	Janssen	McDonald	Schimek
Brashear	Erdman	Jensen	Mines	Schrock
Burling	Fischer	Johnson	Pahls	Smith
Byars	Flood	Kopplin	Pedersen, Dw.	Stuhr
Combs	Foley	Kremer	Pederson, D.	Wehrbein
Connealy	Friend	Kruse	Preister	
Cornett	Heidemann	Landis	Price	

Voting in the negative, 2:

Chambers        Stuthman

Present and not voting, 1:

Bourne

Excused and not voting, 3:

Brown            Synowiecki    Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 589.**

A BILL FOR AN ACT relating to state benefit programs; to amend section 44-1540, Reissue Revised Statutes of Nebraska; to state intent; to define terms; to provide duties for insurers; to require coordination of benefits; to provide penalties; to provide severability; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Aguilar	Cornett	Heidemann	Landis	Price
Baker	Cudaback	Howard	Langemeier	Raikes
Beutler	Cunningham	Hudkins	Louden	Redfield
Brashear	Engel	Janssen	McDonald	Schimek
Burling	Erdman	Jensen	Mines	Schrock
Byars	Fischer	Johnson	Pahls	Smith
Chambers	Flood	Kopplin	Pedersen, Dw.	Stuhr
Combs	Foley	Kremer	Pederson, D.	Stuthman
Connealy	Friend	Kruse	Preister	Wehrbein

Voting in the negative, 0.

Present and not voting, 1:

Bourne

Excused and not voting, 3:

Brown            Synowiecki    Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

**LEGISLATIVE BILL 589A.**

A BILL FOR AN ACT relating to appropriations; to reduce an appropriation to aid in carrying out the provisions of Legislative Bill 589, Ninety-ninth Legislature, First Session, 2005.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Aguilar	Cornett	Heidemann	Landis	Price
Baker	Cudaback	Howard	Langemeier	Raikes
Beutler	Cunningham	Hudkins	Louden	Redfield
Brashear	Engel	Janssen	McDonald	Schimek
Burling	Erdman	Jensen	Mines	Schrock
Byars	Fischer	Johnson	Pahls	Smith
Chambers	Flood	Kopplin	Pedersen, Dw.	Stuhr
Combs	Foley	Kremer	Pederson, D.	Stuthman
Connealy	Friend	Kruse	Preister	Wehrbein

Voting in the negative, 0.

Present and not voting, 1:

Bourne

Excused and not voting, 3:

Brown            Synowiecki    Thompson

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 577 with 40 ayes, 3 nays, 4 present and not voting, and 2 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 577.**

A BILL FOR AN ACT relating to education; to amend sections 79-1003, 79-1007.01, and 79-1103, Reissue Revised Statutes of Nebraska, and sections 79-1007.02 and 79-1028, Revised Statutes Supplement, 2004; to change provisions relating to early childhood education programs as prescribed; to define and redefine terms; to provide a weighting factor and a calculation; to change provisions relating to applicable allowable growth rates; to change provisions relating to a grant program; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 42:

1906

LEGISLATIVE JOURNAL

Aguilar	Cudaback	Janssen	McDonald	Smith
Baker	Cunningham	Jensen	Mines	Stuhr
Bourne	Engel	Johnson	Pahls	Stuthman
Brashear	Fischer	Kopplin	Pedersen, Dw.	Synowiecki
Burling	Flood	Kremer	Preister	Thompson
Byars	Foley	Kruse	Price	Wehrbein
Chambers	Heidemann	Landis	Raikes	
Combs	Howard	Langemeier	Schimek	
Connealy	Hudkins	Louden	Schrock	

Voting in the negative, 0.

Present and not voting, 6:

Beutler	Erdman	Pederson, D.
Cornett	Friend	Redfield

Excused and not voting, 1:

Brown

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 373.**

A BILL FOR AN ACT relating to the Administrative Procedure Act; to amend sections 84-906, 84-906.01, 84-907, 84-907.06, 84-907.07, and 84-920, Reissue Revised Statutes of Nebraska; to change provisions relating to the act; to require information be provided to the Governor; to require an estimated quantification; to provide for legislative review of rules and regulations as prescribed; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 47:

Aguilar	Cornett	Howard	McDonald	Schrock
Baker	Cudaback	Hudkins	Mines	Smith
Beutler	Cunningham	Janssen	Pahls	Stuhr
Bourne	Engel	Jensen	Pedersen, Dw.	Stuthman
Brashear	Erdman	Johnson	Pederson, D.	Synowiecki
Burling	Fischer	Kopplin	Preister	Thompson
Byars	Flood	Kremer	Price	Wehrbein
Chambers	Foley	Kruse	Raikes	
Combs	Friend	Langemeier	Redfield	
Connealy	Heidemann	Louden	Schimek	

Voting in the negative, 1:

Landis

Excused and not voting, 1:

Brown

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 116 with 38 ayes, 6 nays, 4 present and not voting, and 1 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 116.**

A BILL FOR AN ACT relating to children; to amend sections 28-714 to 28-724, 28-727, 43-1724, 43-3342.03, 43-3709, and 71-6906, Reissue Revised Statutes of Nebraska, and sections 28-710, 28-711, 28-713, 28-713.01, 28-725, and 28-726, Revised Statutes Supplement, 2004; to name an act; to change provisions relating to child abuse and neglect reports and the central register of child protection cases; to provide for a tracking system of child protection cases; to eliminate a registry; to provide a penalty for failure to withhold income for child support obligations as prescribed; to change provisions relating to the State Disbursement Unit; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 48:

1908

LEGISLATIVE JOURNAL

Aguilar	Cornett	Howard	Louden	Schimek
Baker	Cudaback	Hudkins	McDonald	Schrock
Beutler	Cunningham	Janssen	Mines	Smith
Bourne	Engel	Jensen	Pahls	Stuhr
Brashear	Erdman	Johnson	Pedersen, Dw.	Stuthman
Burling	Fischer	Kopplin	Pederson, D.	Synowiecki
Byars	Flood	Kremer	Preister	Thompson
Chambers	Foley	Kruse	Price	Wehrbein
Combs	Friend	Landis	Raikes	
Connealy	Heidemann	Langemeier	Redfield	

Voting in the negative, 0.

Excused and not voting, 1:

Brown

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 594.**

A BILL FOR AN ACT relating to driving under the influence; to amend sections 60-6,197.02 and 60-6,197.03, Reissue Revised Statutes of Nebraska, and section 28-106, Revised Statutes Supplement, 2004; to change and provide penalties; to change provisions relating to driving under the influence; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Cudaback	Hudkins	McDonald	Smith
Baker	Cunningham	Janssen	Mines	Stuhr
Beutler	Engel	Jensen	Pahls	Stuthman
Bourne	Erdman	Johnson	Pederson, D.	Synowiecki
Brashear	Fischer	Kopplin	Preister	Thompson
Brown	Flood	Kremer	Price	Wehrbein
Burling	Foley	Kruse	Raikes	
Byars	Friend	Landis	Redfield	
Connealy	Heidemann	Langemeier	Schimek	
Cornett	Howard	Louden	Schrock	

Voting in the negative, 0.

Present and not voting, 3:

Chambers      Combs      Pedersen, Dw.

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

### **MOTION - Override Veto on LB 683**

Senator Schimek renewed her pending motion, found on page 1818, that LB 683 becomes law notwithstanding the objections of the Governor.

Senator Schimek moved for a call of the house. The motion prevailed with 34 ayes, 1 nay, and 14 not voting.

Senator Schimek requested a roll call vote on her motion to override the Governor's veto.

Whereupon the President stated: "The question shall be, 'Shall the bill pass notwithstanding the objections of the Governor?' "

Voting in the affirmative, 25:

Aguilar	Chambers	Janssen	Landis	Schimek
Bourne	Combs	Jensen	Mines	Schrock
Brashear	Connealy	Johnson	Pedersen, Dw.	Stuhr
Burling	Cudaback	Kopplin	Pederson, D.	Synowiecki
Byars	Engel	Kruse	Raikes	Thompson

Voting in the negative, 21:

Baker	Fischer	Hudkins	Preister	Wehrbein
Beutler	Flood	Kremer	Price	
Cornett	Friend	Langemeier	Redfield	
Cunningham	Heidemann	Louden	Smith	
Erdman	Howard	McDonald	Stuthman	

Present and not voting, 2:

Brown      Pahls

Excused and not voting, 1:

Foley

Having failed to receive a constitutional three-fifths majority voting in the affirmative, the bill failed to pass notwithstanding the objections of the Governor.

The Chair declared the call raised.

**SPEAKER BRASHEAR PRESIDING****SELECT COMMITTEE REPORT  
Enrollment and Review****Correctly Enrolled**

The following resolution was correctly enrolled: LR 98.

(Signed) Mike Flood, Chairperson

**ENROLLED RESOLUTION**

**LEGISLATIVE RESOLUTION 98.** Introduced by Schrock, 38; Aguilar, 35; Baker, 44; Beutler, 28; Bourne, 8; Burling, 33; Byars, 30; Chambers, 11; Combs, 32; Connealy, 16; Cornett, 45; Cudaback, 36; Flood, 19; Howard, 9; Janssen, 15; Johnson, 37; Kopplin, 3; Kruse, 13; Landis, 46; McDonald, 41; Mines, 18; Pahls, 31; Preister, 5; Raikes, 25; Schimek, 27; Stuhr, 24; Stuthman, 22; Thompson, 14; Wehrbein, 2.

The Nebraska Accountability and Disclosure Commission (Commission) recently entered into three separate settlement agreements with David Hergert, a member of the University of Nebraska Board of Regents who was elected in November 2004. In these agreements, the Commission determined that Hergert had committed four separate violations of the state's campaign finance laws during the 2004 primary and general election periods. As a part of the settlement, Hergert has agreed to pay \$33,512.10 in civil penalties and late filing fees.

In case number 04-35 (John Gould v. David Hergert), the Commission found that Hergert violated section 49-1458, which requires a candidate committee to report late contributions within two days after receiving such contributions. Hergert acknowledged that his committee received a \$44,000 late contribution (in the form of a loan from Hergert) on October 22, 2004, and that this contribution was not reported until November 3, 2004, well after the statutory two-day deadline. As a result of this violation, the settlement agreement requires Hergert to pay a civil penalty in the amount of \$2,000 and a late filing fee in the amount of \$4,400.

In case number 04-36 (Executive Director v. David Hergert), the Commission concluded that Hergert violated subdivision (5)(b) of section 32-1604, which requires a candidate who chooses not to abide by statutory spending limitations to file an affidavit with the Commission within five days after exceeding forty percent of his or her estimated maximum expenditure. In both the primary and general election period, Hergert elected not to abide by the applicable spending limitation. As a part of the settlement agreement, Hergert acknowledged that he exceeded forty percent of his estimate for the primary election on April 22, 2004, but failed to mail his notice to the Commission until more than two weeks later, on May 10, 2004. He also acknowledged that although he exceeded forty percent of his

estimate for the general election on October 19, 2004, the Commission did not receive his notice until November 12, 2004, well after the five-day deadline had passed. As a result of these violations, Hergert agreed to pay civil penalties in the amount of \$2,000 (\$1,000 per violation).

In case number 04-43 (Chris Beutler v. David Hergert), the Commission determined that Hergert violated section 49-1446.04. This provision prohibits a candidate committee from accepting loans in an aggregate amount representing more than fifty percent of nonloan contributions that the committee received during a specified time period. In the settlement agreement, Hergert acknowledged that his candidate committee accepted more than \$25,000 in loans that violated this restriction. As a result of the violation, Hergert agreed to pay a civil penalty in the amount of \$25,112.10. This is the largest civil penalty for a single violation assessed by the Commission since its inception.

The recitations above, as well as other potential violations, demonstrate that by delaying the disclosure of statutorily required information, Hergert and his candidate committee succeeded in undermining the purposes of Nebraska's campaign finance laws by preventing Hergert's opponents from obtaining current information and from accessing public funds to engage in a "fair fight" for the District 7 Board of Regents seat. Regardless of whether Hergert's misconduct was intentional or unintentional, the result was the same--the violations, viewed as a whole, have tainted the 2004 elections and may very well have changed the result of the elections.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature hereby calls for David Hergert to resign his seat on the Nebraska Board of Regents immediately.

2. That the Legislature hereby calls upon the Governor to fill Mr. Hergert's vacated seat pursuant to section 32-573, pending a special election.

3. That the Legislature hereby calls for a special election, to be held in conjunction with the general election in November 2006, to fill Mr. Hergert's vacated seat.

4. That if Mr. Hergert fails to resign within sixty days of receiving notice of this resolution, the Executive Board of the Legislative Council shall meet forthwith and appoint a special committee of the Legislature to consider and recommend legislative options. The Executive Board may hire special counsel and shall finance whatever investigation is necessary to aid the special committee in reaching a proper determination. The special committee shall render its recommendations to the Executive Board by January of 2006.

5. That the Clerk of the Legislature is hereby directed to send, upon passage, a copy of this resolution, by certified mail with return receipt requested, to Mr. Hergert at his last-known address.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 98 and 223.

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 645, 71A, 589, 589A, 577, 373, 116, and 594.

**SENATOR CUDABACK PRESIDING****MOTION - Override Veto on LB 126**

Senator Raikes renewed his pending motion, found on page 1896, that LB 126 becomes law notwithstanding the objections of the Governor.

**SENATOR SCHIMEK PRESIDING**

Senator Louden moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 4 nays, and 18 not voting.

Senator Raikes moved for a call of the house. The motion prevailed with 38 ayes, 2 nays, and 9 not voting.

**SENATOR CUDABACK PRESIDING**

Senator Raikes requested a roll call vote, in reverse order, on his motion to override the Governor's veto.

Whereupon the President stated: "The question shall be, 'Shall the bill pass notwithstanding the objections of the Governor?' "

Voting in the affirmative, 32:

Aguilar	Chambers	Kopplin	Pederson, D.	Stuhr
Baker	Cornett	Kremer	Preister	Synowiecki
Beutler	Engel	Kruse	Price	Thompson
Bourne	Howard	Landis	Raikes	Wehrbein
Brashear	Janssen	Mines	Redfield	
Brown	Jensen	Pahls	Schimek	
Byars	Johnson	Pedersen, Dw.	Schrock	

Voting in the negative, 16:

Burling	Erdman	Friend	Louden
Connealy	Fischer	Heidemann	McDonald
Cudaback	Flood	Hudkins	Smith
Cunningham	Foley	Langemeier	Stuthman

Present and not voting, 1:

Combs

Having received a constitutional three-fifths majority voting in the affirmative, the bill passed notwithstanding the objections of the Governor.

The Chair declared the call raised.

### **MOTION - Override Veto on LB 126A**

Senator Raikes renewed his pending motion, found on page 1896, that LB 126A becomes law notwithstanding the objections of the Governor.

Senator Landis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 34 ayes, 1 nay, and 14 not voting.

Whereupon the President stated: "The question shall be, 'Shall the bill pass notwithstanding the objections of the Governor?' "

Voting in the affirmative, 38:

Aguilar	Cornett	Johnson	Mines	Schimek
Baker	Engel	Kopplin	Pahls	Schrock
Brashear	Erdman	Kremer	Pedersen, Dw.	Smith
Brown	Fischer	Kruse	Pederson, D.	Stuhr
Burling	Flood	Landis	Preister	Thompson
Byars	Howard	Langemeier	Price	Wehrbein
Combs	Hudkins	Louden	Raikes	
Connealy	Janssen	McDonald	Redfield	

Voting in the negative, 4:

Bourne	Chambers	Heidemann	Stuthman
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Present and not voting, 7:

Beutler	Cunningham	Friend	Synowiecki
Cudaback	Foley	Jensen	

Having received a constitutional three-fifths majority voting in the affirmative, the bill passed notwithstanding the objections of the Governor.

### **UNANIMOUS CONSENT - Add Cointroducer**

Senator Stuthman asked unanimous consent to have his name added as cointroducer to LR 238. No objections. So ordered.

**RESOLUTIONS****LEGISLATIVE RESOLUTION 237.** Read. Considered.**LEGISLATIVE RESOLUTION 238.** Read. Considered.**LEGISLATIVE RESOLUTION 239.** Read. Considered.**LEGISLATIVE RESOLUTION 243.** Read. Considered.

Pursuant to Rule 4, Sec. 5, LRs 237, 238, 239, and 243 were adopted with 45 ayes, 0 nays, and 4 present and not voting.

**MOTIONS - Approve Appointments**

Senator Kremer moved the adoption of the Agriculture Committee report for the confirmation of the following appointment(s) found on page 1753:

Department of Agriculture  
Greg Ibach

Voting in the affirmative, 39:

Aguilar	Connealy	Friend	Kruse	Raikes
Baker	Cudaback	Howard	Langemeier	Redfield
Beutler	Cunningham	Hudkins	Louden	Schimek
Bourne	Engel	Janssen	McDonald	Smith
Brown	Erdman	Jensen	Pahls	Stuhr
Burling	Fischer	Johnson	Pederson, D.	Stuthman
Byars	Flood	Kopplin	Preister	Wehrbein
Combs	Foley	Kremer	Price	

Voting in the negative, 0.

Present and not voting, 9:

Brashear	Heidemann	Mines	Schrock	Thompson
Cornett	Landis	Pedersen, Dw.	Synowiecki	

Excused and not voting, 1:

Chambers

The appointment was confirmed with 39 ayes, 0 nays, 9 present and not voting, and 1 excused and not voting.

Senator Schimek moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 1759:

Nebraska Commission on Law Enforcement and Criminal Justice  
Mike Behm

Voting in the affirmative, 35:

Aguilar	Connealy	Friend	Kopplin	Pederson, D.
Baker	Cudaback	Heidemann	Kremer	Raikes
Bourne	Engel	Howard	Kruse	Schimek
Brashear	Erdman	Hudkins	Langemeier	Stuhr
Burling	Fischer	Janssen	Louden	Stuthman
Byars	Flood	Jensen	McDonald	Synowiecki
Combs	Foley	Johnson	Pahls	Wehrbein

Voting in the negative, 0.

Present and not voting, 13:

Beutler	Cunningham	Pedersen, Dw.	Redfield	Thompson
Brown	Landis	Preister	Schrock	
Cornett	Mines	Price	Smith	

Excused and not voting, 1:

Chambers

The appointment was confirmed with 35 ayes, 0 nays, 13 present and not voting, and 1 excused and not voting.

Senator Schimek moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 1759:

Nebraska State Patrol  
Bryan Tuma

Voting in the affirmative, 33:

Aguilar	Cornett	Foley	Langemeier	Raikes
Bourne	Cudaback	Friend	Louden	Schimek
Brashear	Cunningham	Heidemann	McDonald	Stuhr
Burling	Engel	Howard	Pahls	Stuthman
Byars	Erdman	Kremer	Pedersen, Dw.	Wehrbein
Combs	Fischer	Kruse	Pederson, D.	
Connealy	Flood	Landis	Price	

Voting in the negative, 0.

Present and not voting, 15:

1916

LEGISLATIVE JOURNAL

Baker	Hudkins	Johnson	Preister	Smith
Beutler	Janssen	Kopplin	Redfield	Synowiecki
Brown	Jensen	Mines	Schrock	Thompson

Excused and not voting, 1:

Chambers

The appointment was confirmed with 33 ayes, 0 nays, 15 present and not voting, and 1 excused and not voting.

Senator Raikes moved the adoption of the Education Committee report for the confirmation of the following appointment(s) found on page 1814:

Coordinating Commission for Postsecondary Education  
Timothy D. Hodges

Voting in the affirmative, 37:

Aguilar	Cunningham	Hudkins	Louden	Schimek
Bourne	Engel	Janssen	McDonald	Smith
Burling	Erdman	Jensen	Pahls	Stuhr
Byars	Fischer	Johnson	Pedersen, Dw.	Synowiecki
Combs	Foley	Kopplin	Pederson, D.	Wehrbein
Connealy	Friend	Kremer	Preister	
Cornett	Heidemann	Kruse	Price	
Cudaback	Howard	Langemeier	Raikes	

Voting in the negative, 0.

Present and not voting, 11:

Baker	Brown	Mines	Stuthman
Beutler	Flood	Redfield	Thompson
Brashear	Landis	Schrock	

Excused and not voting, 1:

Chambers

The appointment was confirmed with 37 ayes, 0 nays, 11 present and not voting, and 1 excused and not voting.

**SPEAKER BRASHEAR PRESIDING**

**COMMUNICATIONS**

June 3, 2005

The Honorable John Gale  
Secretary of State  
2300 State Capitol  
Lincoln, NE 68509

Dear Mr. Secretary:

Inasmuch as the Legislature did not override the veto by Governor Heineman of LB 683, and consistent with our rules, I am delivering the bill for filing in the form prescribed by the Governor.

Sincerely,  
(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

PJO:jk

June 3, 2005

The Honorable John Gale  
Secretary of State  
2300 State Capitol  
Lincoln, NE 68509

Dear Mr. Secretary:

Inasmuch as the Legislature did not override the veto by Governor Heineman of LB 683A, and consistent with our rules, I am delivering the bill for filing in the form prescribed by the Governor.

Sincerely,  
(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

PJO:jk

June 3, 2005

The Honorable John Gale  
Secretary of State  
2300 State Capitol Building  
Lincoln, NE 68509

Dear Mr. Secretary:

Pursuant to the provisions of 84-503, R.R.S., we are forwarding LB 126 with a certificate attached thereto signed by the President of the Legislature

1918

LEGISLATIVE JOURNAL

certifying the passage of LB 126, notwithstanding the objections of the Governor.

Sincerely,  
(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

PJO:jk  
Enc.

**CERTIFICATE**

Legislative Bill 126, having been returned by the Governor with his objections thereto, and after reconsideration having passed the Legislature by the constitutional majority, it has become law this 3rd day of June 2005.

(Signed) Kermit A. Brashear  
President of the Legislature

**COMMUNICATION**

June 3, 2005

The Honorable John Gale  
Secretary of State  
2300 State Capitol Building  
Lincoln, NE 68509

Dear Mr. Secretary:

Pursuant to the provisions of 84-503, R.R.S., we are forwarding LB 126A with a certificate attached thereto signed by the President of the Legislature certifying the passage of LB 126A, notwithstanding the objections of the Governor.

Sincerely,  
(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

PJO:jk  
Enc.

**CERTIFICATE**

Legislative Bill 126A, having been returned by the Governor with his objections thereto, and after reconsideration having passed the Legislature by the constitutional majority, it has become law this 3rd day of June 2005.

(Signed) Kermit A. Brashear  
President of the Legislature

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 237, 238, 239, and 243.

**PRESIDENT SHEEHY PRESIDING****MOTION - Notify Governor**

Senator Stuhr moved that a committee of five be appointed to notify the Governor that the Ninety-Ninth Legislature, First Session of the Nebraska Legislature, is about to complete its work, and to return with any message the Governor may have for the Legislature.

The motion prevailed.

The Chair appointed Senators Schimek, Price, D. Pederson, Langemeier, and Landis to serve on said committee.

The committee returned and escorted Governor Dave Heineman to the rostrum where he delivered a message to the members.

The committee escorted Governor Dave Heineman from the Chamber.

**PRESENTED TO THE GOVERNOR**

Presented to the Governor on June 3, 2005, at 10:06 a.m. were the following: LBs 645, 71A, 589, 589A, 577, 373, 116, and 594.

(Signed) Jamie Kruse  
Clerk of the Legislature's Office

**MESSAGE FROM THE GOVERNOR**

June 3, 2005

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 71A, 116, 373, 577, 589, 589A, 594, and 645 were received in my office on June 3, 2005.

I signed these bills and delivered them to the Secretary of State on June 3, 2005.

Sincerely,  
(Signed) Dave Heineman  
Governor

### RESOLUTION

**LEGISLATIVE RESOLUTION 244.** Introduced by Judiciary Committee: Bourne, 8, Chairperson; Aguilar, 35; Flood, 19; Foley, 29; Friend, 10.

**PURPOSE:** The purpose of this study is to examine issues relating to the Legislature's ability to regulate the unauthorized practice of law. The study shall include an examination of constitutional issues and the committee shall seek input from affected parties.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

### REPORT OF THE EXECUTIVE BOARD

#### 2005 Resolutions calling for an Interim Study

LR 242 Interim study to examine issues within the jurisdiction of the Agriculture Committee  
Agriculture

LR 244 Interim study to examine issues relating to the Legislature's ability to regulate the unauthorized practice of law  
Judiciary

(Signed) L. Patrick Engel, Chairperson  
Legislative Council, Executive Board

### EXPLANATIONS OF VOTES

Had I been present, I would have voted "aye" on final passage of LB 645.

(Signed) Nancy Thompson

Had I been present, I would have voted "aye" on final passage of LBs 645, 71A, 589, 577, 373, 116, and 594.

(Signed) Pam Brown

**MOTION - Suspend Rules**

Senator Brashear renewed his pending motion, found on page 1878, to suspend Rule 6, Section 3, and Rule 7, Sections 3 and 7, and to indefinitely postpone the following bills whose provisions have been included in other enacted legislation or whose companion bill has been indefinitely postponed: LBs 8, 12, 12A, 22, 25, 29, 92, 110, 123, 130, 151, 167, 170, 171, 174, 177, 187, 212, 218, 237, 240, 251, 272, 273, 273A, 300, 302, 330, 365, 367, 368, 395, 410, 411, 412, 444, 446, 466, 474, 494, 519, 532, 558, 597, 603, 619, 691, 703, 716, 734, 738, 755, 756, and 758.

The motion prevailed.

**MOTION - Journal, Session Laws, and Indexes**

Senator Wehrbein moved that the Legislature approve the preparation and printing of the permanent Legislative Journal, Session Laws, and Indexes by Patrick J. O'Donnell, and that he be directed to send to each member of the Legislature a copy of the loose-leaf session laws and of the permanent Journal and Session Laws.

The motion prevailed.

**VISITORS**

Visitors to the Chamber were Michael Trammell; and Senator Cornett's husband, Mark Stranglen, from Bellevue.

**MOTION - Adjourn Sine Die**

Senator Brashear moved that the Journal for the Ninetieth Day, as prepared by the Clerk of the Legislature, be approved and that the Ninety-Ninth Legislature, First Session of the Nebraska Legislature, having finished all business before it, now at 11:57 a.m., adjourn sine die.

The motion prevailed.

Patrick J. O'Donnell  
Clerk of the Legislature

**CORRECTIONS FOR THE JOURNAL**

Pages 1910 and 1911 of the Ninetieth Day Journal, Ninety-Ninth Legislature, First Session, shows LR 98 as Correctly Enrolled and reflects all amendments and changes which were adopted.